
Return to: Kiawah Island Community Association
23 Beachwalker Drive
Kiawah Island, South Carolina 29455
Attn: Chief Operating Officer Jimmy Bailey

STATE OF SOUTH CAROLINA

Cross Reference: Deed Book M-114
Page 407

COUNTY OF CHARLESTON

**THIRTEENTH AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS OF THE KIAWAH ISLAND COMMUNITY
ASSOCIATION, INC.**

WHEREAS clauses to be inserted here.

NOW THEREFORE, the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. is hereby amended as follows:

Article VIII, Section 3 of the Declaration is deleted in its entirety and replaced with the following:

Section 1: : Enforcement

(a) **Authority**. The Properties shall be used only for those uses and purposes set out in this Declaration. Every Owner and Occupant shall comply with this Declaration, the Bylaws and Rules and Regulations of the Association (“Association Documents”), and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Owners, to take action to enforce the terms of the Association Documents. In addition to any rights the Association may have against an Owner’s family, guests, tenants or occupants, as a result of such person’s violation of the Association documents, the Association may take action under this Declaration against the Owner as if the Owner committed the violation.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board of Directors may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss,

¹ This title and the Whereas clauses are subject to change depending on which Covenant Amendments are approved

damage or otherwise shall exist by an aggrieved Owner or occupant against the Association for failure to enforce the provisions hereof if the aggrieved owner or occupant has not personally pursued all available remedies against the violator for redress provided under South Carolina law.

(b) **Types of Enforcement Actions.** In the event of a violation of the Association Documents, the Association shall have the power to take any or all of the following actions separately or simultaneously; provided, however, ~~A) all suspensions, fines and other actions shall comply with the procedures described below, and (B) except in the case of an emergency described in subsection (c)(iii)(4) below, the Association shall give a violating Owner at least thirty (30) days advance written notice of such violation before entering the Owner's property as provided in subsection (iv) below.~~ ~~unless otherwise provided, all suspensions and fines shall comply with the procedures described below and nothing herein shall authorize the Association or the Board to deny ingress and egress to or from the Properties.~~

(i) suspend all rights to use the Common Property, ~~the Restricted Common Properties and the Purchased Common Properties (collectively the "Combined Common Properties");~~

(ii) suspend the voting rights of a violating Owner;

(iii) impose reasonable fines ~~as set forth in the Association Documents,~~ which shall constitute a lien on the violating Owner's ~~Residential Lot and/or Family Dwelling Unit;~~

(iv) ~~to exercise other self-help remedies, including, without limitation those requiring the Association to enter upon the property where such violation exists, when such actions are deemed necessary or prudent in the sole judgment of the Association in order to eliminate or reduce the effect of such violation, all at the expense of the violating Owner~~ ~~use self-help to remedy the violation;~~

(v) bring an action for permanent injunction, temporary injunction and/or specific performance to compel the violator to cease and/or correct the violation; and

(vi) record in the Charleston County land records a notice of violation identifying any uncured violation of the Association Documents.

(c) **Violation Notice and Hearing Provisions** ~~Suspension and Fining Procedure.~~ Except as provided below, before ~~taking any of the enforcement actions described in subsection (b) above imposing fines or suspending the right to use the Common Property or the right to vote,~~ the Association shall give a written violation notice to the Owner as provided below.

(i) **Violation Notice.** The written violation notice to the Owner shall:

1. Identify the violation, suspension(s), ~~and/or fine(s)~~ ~~or other actions proposed to be taken in connection with such violation~~ ~~being imposed;~~ and

2. Advise the Owner of the right to request a violation hearing before the Board of Directors to contest the existence of the violation or request reconsideration of suspension(s), ~~or the fine(s)~~ or other proposed actions.

Notwithstanding the Owners right to request a violation hearing, suspension(s) and/or fine(s) shall commence on the date of the written violation notice, unless a later date is specified in such notice. All such notices may be given by the Association in accordance with the provisions of Article VIII, Section 7 and/or Article III, Section 9 of the Declaration.

(ii) **Violation Hearing.** If the Owner submits a written request for a violation hearing within ~~fourteen~~ (14) days of the date of the violation notice described above is deemed to have been received by the violating Owner, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If an Owner fails to timely request a violation hearing, such Owner loses the right to contest the violation and request reconsideration of the suspension(s) and/or the fine(s). If an Owner timely requests a violation hearing, the Owner shall have a reasonable opportunity to address the Board regarding the violation; provided, however, the Board may establish rules of conduct for the violation hearing, including but not limited to, limits on the amount of time one person can speak and limits on the number of speakers and limits on the number of participants who may be present at one time. The minutes of the violation hearing shall contain a written statement of the results of such hearing.

(iii) **No Violation Notice and Hearing Required.** No violation notice or violation hearing shall be required to:

1. impose late charges on delinquent assessments;

2. suspend a violating Owner's voting right if the Owner is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the violating Owner's right to vote shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;

3. suspend an Owner's right to use the Combined Common Properties if the Owner is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the Owner's right to use the Combined Common Properties shall be automatic (which shall allow the Association to tow and/or boot an Owner's vehicle located on the Combined Common Properties ~~without complying with the Suspension and Fining Procedures described above~~);

4. exercise self-help remedies in the case of an emergency where a violation of the Authority Documents, in the sole judgement of the Association, presents a threat to life, health, the environment or other property, including, without limitation, the entry upon any property of a violating Owner and the taking of such other actions as are deemed necessary or prudent in the sole judgment of

~~the Association to eliminate or reduce such threat, all at the Owner's expense engage in self-help in an emergency;~~

5. impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Owner; or

6. impose fines if the same violation occurs again on the same property, in which case fine(s) may be imposed on a per diem basis without any further notice to the violating Owner.

7. ~~suspend any Member for any period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations as provided in subsection (d) of Section 6 of Article IV of the Consolidated Covenants.~~

~~Unless the Owner has been given prior notice that any enforcement action may be taken if certain payments or other actions have not been taken, the Board of Directors shall promptly give the violating Owner notice following the taking of any of the enforcement actions described in this subsection (iii).~~

~~6. — (iv) **Violating Owners Rights to Access Property: Entry by Association Not a Trespass.** Notwithstanding anything else contained herein, no enforcement action taken pursuant these Covenants shall preclude any violating Owner from accessing his or her Property. The entry by or on behalf of the Association on any Residential Lot or Dwelling Unit for the purposes described herein shall not be deemed a trespass.~~

(d) **Injunctions and Other Suits at Law or in Equity.** All Owners agree and acknowledge that there may not be adequate remedies at law to enforce the Association Documents. Therefore, in addition to all other enforcement rights granted herein, the Association is hereby entitled to bring an action for permanent injunction, temporary injunction and/or specific performance to compel an Owner to cease and desist and/or correct any violation.

(e) **Costs and Attorney's Fees for Enforcement Actions.** In any action taken by the Association to enforce the Association Documents, the Association shall be entitled to recover from the Owner, any and all costs incurred by the Association, including but not limited to attorneys' fees actually incurred, all of which shall constitute a lien against the violating Owner's Residential Lot and/or Dwelling Unit.

~~(f) — **Failure to Enforce.** The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Owner. The failure of the Board to enforce any provision of the Association Documents shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to take any enforcement action. ~~enforce if the Board of Directors determines that:~~~~

~~(i) — the Association's position is not strong enough to justify taking enforcement action.~~

~~(ii) — a particular violation is not of such a material nature as to be objectionable to a reasonable person;~~

~~(iii) — a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;~~

~~(iv)(f) the aggrieved Owner or occupant asserting a failure of enforcement has not independently pursued all available individual remedies under South Carolina law; or~~

IN WITNESS WHEREOF, the undersigned officers of the Kiawah Island Community Association, Inc. hereby certify that the above amendment to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. was duly adopted by the requisite vote of the Kiawah Island Community Association Membership. This amendment will become effective as of the date listed below.

This ____ day of _____, 20__.

KIAWAH ISLAND COMMUNITY ASSOCIATION, INC.

By: _____
PresidentChair

Attest: _____
Secretary

[CORPORATE SEAL]

