

Denton County
Juli Luke
County Clerk

Instrument Number: 121443

ERecordings-RP
RESTRICTIONS

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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STATE OF TEXAS
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

RESOLUTION

TIMBERVIEW ESTATES WEST HOMEOWNERS ASSOCIATION

Fining Policy

Replaces any/all prior

WHEREAS, Section 8.01(m) of the By-Laws and 3.2(c) of the Covenants, Conditions, and Restrictions grants the Board of Directors the authority and power to enforce the Covenants, Conditions, and Restrictions, which may include the establishment of a system of fines and/or penalties enforceable as a specific assessments, and;

WHEREAS, the Board finds there is a need to establish orderly procedures for the enforcement of the other provisions of the Declaration and the rules promulgated there under in order to encourage owners to comply with the Association's governing documents; and

WHEREAS, the Board also desires to establish a system of fines as a means to enforce compliance with the Association's governing documents;

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of the provisions of the Declaration and for the elimination of violations of the Declaration and the rules promulgated there under.

1. PROCESS OF NOTIFICATION - Prior to imposing a fine, the Board must give an owner a written notice of violation and an opportunity to cure the violation. The following steps must be followed with supporting documentation kept on file in order to impose a fine:

a. First Notice - As soon as a violation is discovered, the Association's management agent ("Management") shall make the owner and resident, if different than the owner, aware of the discovered violation by First-Class Mail. Included in the First Notice will be a reference to the provision of the CC&Rs or adopted rules, which contains the violation, what specifically must be done to cure the violation, and a statement that no later than fourteen (14) days from the date of the Notice the violation must be cured.

b. Second Notice - If the owner fails to correct or eliminate the violation within the initial fourteen (14) day compliance period, Management shall notify the owner and the violator, if different than the owner, by First-Class Mail and Certified Mail that the violation previously noted in the 'First Notice' has not been resolved. The second notice shall contain the following information:

- i. A description of the violation and what specifically must be done to cure the violation;
- ii. A statement that not later than fourteen (14) days from the date of the Second Notice the violation must be cured.

The second notice will include a charge to the homeowner account for the current certified letter fee.

c. Third Notice - If the owner fails to correct or eliminate the violation within the initial twenty eight (28) day compliance period, Management shall notify the owner and the violator, if different than the owner, by First-Class Mail and Certified Mail that the violation previously noted in the First and Second Notices has not been resolved. The third notice shall contain the following information:

- i. A description of the violation and what specifically must be done to cure the violation;
- ii. A statement that not later than fourteen (14) days from the date of the Third

Notice the violation must be cured.

- iii. A statement that the owner may present a written request to the Board of Directors for a hearing within thirty (30) days from the date of the Notice per the appeal process described in section 2.

The third notice will include a charge to the homeowner account for the current certified letter fee and the first violation fine.

- d. Additional Notices will be sent every 14 days until the violation is cured.
 - i. A description of the violation and what specifically must be done to cure the violation.
 - ii. A statement that the owner may present a written request to the Board of Directors for a hearing within thirty (30) days from the date of the Notice per the appeal process described in section 2.

Each additional notice will include a subsequent violation fine applied to the homeowner account for the violation. If the notice is required by law to be sent certified mail then it will also include the current certified letter fee in addition to the fine amount.

If the board feels the violation presents a safety hazard, reduces the financial value of the surrounding homes, or violates applicable laws it may elect to proceed with a TROPA notice. Election of TROPA does not prohibit the board from exhausting all other legal avenues to obtain a cure to the violation.

- e. TROPA Notice - Where management has observed the violation uncorrected and not received a Notice of Intent to Correct (whether written or verbal) within the allotted forty two (42) or more day covered by the initial three notices then Management shall have the option to initiate a TROPA Notice in compliance with section 209 of the Texas Residential Owners Protection Act. If initiated, the TROPA notice shall state:
 - i. The nature of the violation
 - ii. That the owner or violator, if different than owner, no later than thirty (30) days from the date of the TROPA Notice, must cure the violation;
 - iii. That their common area privileges may be suspended;
 - iv. That a fee for non-compliance in addition to all legal and any other fees incurred by the HOA will be applied against the owner's account for not curing the violation within the specified period of time contained in the TROPA notice;
 - v. A statement that the owner may present a written request to the Board of Directors for a hearing within 30 days from the date of the TROPA Notice.

2. **APPEAL PROCESS** - The following steps should be provided in the case where a homeowner has been given appropriate notice of a violation and has submitted to the management company a written appeal to the application of a fine within the specific period of time:

- a. Response to Request for Hearing - if the owner timely requests a hearing to challenge the proposed action, a hearing before the Board of Directors shall be held in executive session affording the owner a reasonable opportunity to be heard. The Board shall send notice to the owner of a mutually agreed time, date, and place of a hearing with an invitation to attend and produce any statements, evidence, and witnesses in support of the owner's challenge to the proposed fine application or violation. The minutes of the meeting shall contain a written statement of the owner's reason for non-compliance and the results of the hearing (whether the fine is applied or not). The decision of the Board will be made in executive session after the homeowner has been excused from the meeting.
- b. Notification of Hearing Decision - within ten (10) days of the appeal hearing the Board shall send notices as to their decision providing a support response for their decision. Any reasonable extension of time required by the Board shall also be noted in the response.

- c. Waiver of Fines (correspondence) - contained within any correspondence sent to a homeowner where a fine is applied, will be a notation to the homeowner that they may request waiver of the fine by appealing to the Board of Directors in writing after the violation is cured. There are 3 kinds of waivers.
 - i. Violation in Error Waiver-The resident successfully proves the violation notice was sent in error and no violation actually occurred.
 - ii. Hardship Waiver-The homeowner agrees a violation occurred but due to hardship was/is unable to remedy it in a timely manner.
 - iii. Courtesy Waiver-The homeowner agrees a violation occurred and has remedied it to the board's satisfaction and is asking for a waiver of the fines on their account. While this typically applies to a single violation it can be used for multiple violations to bring the account to a zero balance with respect to fine violations. Note a Courtesy Waiver is only available for a one time use for the duration of time the home owner owns that specific lot. If the board has previously approved a Courtesy Waiver of fines then a further Courtesy Waiver of additional fines is not available to the homeowner.

When filing the appeal, the homeowner must specify which of the 3 kinds of waivers they are seeking.

3. FINES AND OTHER FEES

Fining Schedule - the imposition of fines per incident type will be on the following basis:

- a. First fine - \$50.00 per incident type.
- b. Subsequent fines - \$50.00 per inspection where the violation per incident type has not been cured.
- c. Aggregate limit - there is not a limit to the number of fines that can be applied to each separate violation.

4. CURE OF VIOLATION DURING ENFORCEMENT

An owner may correct or cure a violation at any time during the procedure prescribed by this policy via either method described below.

- a. Correcting / curing the violation
- b. If the violation cannot be cured prior to the next inspection then the homeowner can propose in writing to the HOA Community Manager and copy HOA president a plan to cure the violation. At minimum, if communicating via email - and if communicating by USPS, please send letter via certified mail for your protection). The plan must;
 - i. Specify definitive and verifiable steps which will achieve correction of the violation
 - ii. Lay out a definite timeline to accomplish the steps in i
 - iii. Be approved by the HOA board as having a reasonable length of time to complete the cure and a reasonable likelihood of curing the violation.

Upon HOA board approval of the curation plan or verification the violation has been corrected or cured further fines will pause. However, if the plan is not executed as approved or if the same violation reoccurs within a 6-month period of the last fine, the violation/fine process will be reinitiated at the level it was at when paused. If more than 6 months have elapsed since a violation/fine has been paused then the violation will be considered cured. If the violation reoccurs after it is cured then the violation/fining process starts over with a first notice (see section 1a). Unless the proper appeal process is followed and fines removed, the owner will remain liable for all costs and fines under this policy, which costs and fines, if not paid upon demand may be referred to a 3rd Party for collection.

**TIMBERVIEW ESTATES WEST
HOMEOWNERS ASSOCIATION, INC.**

RESOLUTION

The Board of Directors for Timberview Estates West Homeowners Association, Inc. resolves to adopt the attached Firing Policy.

EXECUTED as 11th day of August, 2020

Name: _____

Title: President Timberview Estates West HOA

Date: August 11, 2020

STATE OF TEXAS

COUNTY OF Denton

This instrument was acknowledged before me on this date 11th day of August, 2020, by William Jander, President of Timberview Estates West Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

