

GOVERNING DOCUMENTS ENFORCEMENT AND FINE POLICY
for
FALL CREEK HOMEOWNERS ASSOCIATION, INC.

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

I, Jonathan Jones, Secretary of Fall Creek Homeowners Association, Inc. (the "Association"), certify that at a meeting of the Board of Directors of the Association duly called and held on the 13 day of September, 2016, with at least a quorum of the Board members being present and remaining throughout, and being duly authorized to transact business, the following Governing Documents Enforcement and Fine Policy was approved by not less than a majority of the Board members in attendance.

RECITALS:

1. Article II, Section 1 of the Declaration of Covenants, Conditions and Restrictions for Fall Creek Single Family Residential Areas (the "Declaration") recorded in the Official Public Records of Real Property of Harris County, Texas on October 3, 2001 under Clerk's File No. V338181, grants to the Association the power and authority to enforce all covenants, conditions and restrictions set forth in the Declaration.

2. Article II, Section 5 of the Declaration grants the Association the power to adopt and enforce rules and regulations, including the authority to levy fines.

3. Section 209.006 of the Texas Property Code sets forth notice requirements prior to the commencement of enforcement action, including the imposition of fines.

4. The Board of Directors desires to adopt a policy relating to the enforcement of the Declaration and the other governing documents of the Association consistent with Section 209.006 of the Texas Property Code and applicable provisions in the Declaration.

WITNESSETH:

It is the policy of the Association to enforce its governing documents as provided below.

Section 1. Definitions.

Capitalized terms used in this policy have the following meanings:

- 1.1. **Board or Board of Directors** - The Board of Directors of the Association.
- 1.2. **Governing Documents** - The Declaration, the Articles of Incorporation and Bylaws of the Association, and the rules and regulations of the Association

RP-2016-417421

adopted by the Board and recorded in the Official Public Records of Real Property of Harris County, Texas.

Other capitalized terms used in this policy have the same meanings as that ascribed to them in the Declaration.

Section 2. Types of Violations. Section 209.006 of the Texas Property Code refers to curable violations, uncurable violations, and violations which are considered a threat to public health or safety. The types of violations are addressed below.

2.1. **Curable Violations** - By way of example and not in limitation, the Texas Property Code lists the following as examples of curable violations:

- a. a parking violation;
- b. a maintenance violation;
- c. the failure to construct improvements or modifications in accordance with approved plans and specifications; and
- d. an ongoing noise violation such as a barking dog.

2.2. **Uncurable Violation** - A violation that has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. By way of example and not in limitation, the Texas Property Code lists the following as examples of uncurable violations:

- a. an act constituting a threat to health or safety;
- b. discharging fireworks;
- c. a noise violation that is not ongoing; and
- d. holding a garage sale or other event prohibited by the Governing Documents.

2.3. **Violation that is a Threat to Public Health or Safety** - Per the Texas Property Code, a violation that could materially affect the physical health or safety of an ordinary resident.

As provided in this policy, there are two (2) enforcement procedures to be followed depending upon whether the violation is curable *and* does not pose a threat to public health or safety or whether the violation is uncurable *and/or* poses a threat to public health or safety. If there is reasonable uncertainty as to whether a violation is curable or uncurable or a threat to public health or safety, the Board has the authority to make the determination and, therefore, to decide which enforcement procedure will be followed. Provided that, this policy shall not be construed to impose an obligation on the Board to pursue enforcement action with respect to a violation or alleged violation if the Board, in its reasonable good faith judgment, decides that enforcement action is not warranted or necessary.

Section 3. Enforcement - Curable Violations That Do Not Pose a Threat to Public Health or Safety. If a violation is curable and does not pose a threat to public health or safety, the Owner will be given a reasonable period to cure the violation, as provided below. The time period

given to an Owner may vary depending upon the violation and the difficulty involved or the effort required to cure the violation. The Board of Directors may, but shall not be obligated to, consider any special circumstance relating to the violation and the cost to cure the violation. The enforcement procedure for this type of violation is as follows:

3.1. **Courtesy Letter (Optional)** - Upon verification of a violation, a courtesy letter may be sent to the Owner describing the violation and requesting that the Owner cure the violation within a stated time period. The Association is not required to send a courtesy letter.

3.2. **Violation Letter (Optional)** - After the expiration of the time set forth in the courtesy letter, if a courtesy letter is sent, a violation letter may be sent to the Owner. Depending on the severity of the violation and/or the history of prior violations on the Owner's Lot, the violation letter may be the first letter sent to the Owner. The Association is not required to send a violation letter. If sent, the violation letter will include:

- a. a description of the violation;
- b. the action required to correct the violation;
- c. the time by which the violation must be corrected; and
- d. notice that if the violation is not corrected within the time provided or if there is a subsequent violation of the same restriction, a fine may be imposed.

3.3. **Demand Letter** - Either upon initial verification of a violation, or after the expiration of the time period stated in the courtesy letter and/or violation letter, if sent, a demand letter may be sent to the Owner. The demand letter will be sent by certified mail. The demand letter may also be sent by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier. The demand letter shall be sent to the Owner's last known address as shown in the records of the Association, as well as by any other method that the Board determines will cause the demand letter to be received by the Owner. Depending on the severity of the violation and/or the history of prior violations on the Owner's Lot, the demand letter may be the first letter sent (rather than a courtesy letter and/or a violation letter), as determined by the Board in its sole discretion.

3.4. **Content of the Demand Letter** - The demand letter will include the following:

- a. a description of the violation that is the basis for the suspension action, charge, or fine and any amount due the Association;
- b. notice that the Owner is entitled to a reasonable period to cure the violation and avoid the suspension, charge or fine;
- c. a specific date, which must be a reasonable period, by which the Owner must cure the violation. If the Owner cures the violation before the date specified, a fine may not be assessed for the violation;
- d. a notice that the Owner may request a hearing before the Board of

Directors, such request to be made in writing on or before the 30th day after the date the notice was mailed to the Owner; and

- e. notice that the Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the Owner is serving on active military duty.

3.5. **Hearing Requested** – If a hearing is properly requested by the Owner, the hearing shall be held not later than the 30th day after the date the Association receives the Owner's written request for a hearing. Notification of the date, time and place of the hearing will be sent not later than the 10th day before the hearing. If a postponement of the hearing is requested by either the Association or the Owner, a postponement must be granted for a period of not more than ten (10) days. Any additional postponement may be granted by agreement of the parties.

3.6. **Hearing Not Requested** – If a hearing is not properly requested by the Owner, the violation must be cured within the time frame set forth in the demand letter. Fines, suspension of right to use Common Areas, and other remedies available to the Association may be implemented after the expiration of the thirty (30) day time frame provided to the Owner to request a hearing.

3.7. **Remedies** – The Owner shall be liable for, and the Association may collect reimbursement of, reasonable attorney's fees and other reasonable costs incurred by the Association after the conclusion of a hearing, or, if a hearing is not requested, after the date by which the Owner must request a hearing. Additionally, the Association may, but is not obligated to, exercise any self help remedies set forth in the Declaration. Further, the right to use the Common Area may be suspended.

In addition to charging fines, the Association reserves the right under the Governing Documents and under Texas law to file a suit for the recovery of damages and/or injunctive relief.

A notice of violation may also be recorded in the real property records if the violation is not cured within the specified time frame.

Section 4. Enforcement - Uncurable Violations and/or Violations that Pose a Threat to Public Health or Safety.

Upon initial verification of an uncurable violation and/or threat to public health or safety, a demand letter may be sent to the Owner. The demand letter will be sent by certified mail. The demand letter may also be sent by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier. The demand letter shall be sent to the Owner's last known address as shown in the Association's records, as well as by any other method that the Board determines will cause the demand letter to be received by the Owner.

- 4.1. **Content of the Demand Letter** – The demand letter will include the following:

- a. a description of the violation that is the basis for the suspension action, charge, or fine and any amount due the Association;
- b. notice that the Owner may request a hearing before the Board of Directors, such request to be made in writing on or before the 30th day after the date the notice was mailed to the Owner; and
- c. notice that Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the Owner is serving on active military duty;

4.2. **Hearing Requested** - If a hearing is properly requested by the Owner, the hearing shall be held not later than the 30th day after the date the Association receives the Owner's written request for a hearing. Notification of the date, time and place of the hearing will be sent not later than the 10th day before the hearing. If a postponement of the hearing is requested by either the Association or the Owner, a postponement must be granted for a period of not more than ten (10) days. Any additional postponement may be granted by agreement of the parties.

4.3. **Remedies** - Regardless of whether the Owner chooses to request a hearing, fines, suspension of right to use the Common Area, and other remedies available to the Association may be implemented after mailing the demand letter. The Owner shall be liable for, and the Association may collect reimbursement of, reasonable attorney's fees and other reasonable costs incurred by the Association. Additionally, the Association may, but is not obligated to, exercise any self help remedies set forth in the Declaration. Further, the right to use the Common Area may be suspended.

In addition to charging fines, the Association reserves the right under the Governing Documents and under Texas law, to file a suit for the recovery of damages and/or injunctive relief.

A notice of violation may also be recorded in the real property records should the violation not be cured within the specified time frame.

Section 5. Subsequent Violation. If an Owner has been given notice in accordance with Section 3 or Section 4 of this policy in the preceding six (6) month period, notice is not required for the recurrence of the same or similar violation. The Association may impose fines or suspend the Owner's right to use Common Area without first sending another demand for compliance.

Section 6. Fines. Subject to the notice provisions set forth in Section 3 or Section 4 of this policy, as applicable, the Association may impose fines against an Owner as a result of a violation. Per Article X, Section 8 of the Declaration, fines shall be collected as provided therein for the collection of assessments. The following schedule of fines may apply should the Board determine, in its sole discretion, to impose fines for a particular violation:

First Violation	\$ 50.00
Second Violation	\$ 100.00
Subsequent Violations	\$ 150.00

RP-2016-417421

Notwithstanding the fine schedule above, the Board has the authority to set the amount of the fine as it reasonably relates to the violation of the Governing Documents, taking into consideration the number of Owners affected by the violation. The Board is hereby authorized to impose lesser or greater fines, or no fine at all, for a violation of the Governing Documents, as determined by the Board in its sole discretion. Each day that such violation continues may be considered to be a new violation.

I hereby certify that I am the duly elected and acting Secretary of the Association and that the foregoing Governing Documents Enforcement and Fine Policy was approved by a majority vote of the Board of Directors as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

TO CERTIFY which witness my hand this 13 day of September, 2016.

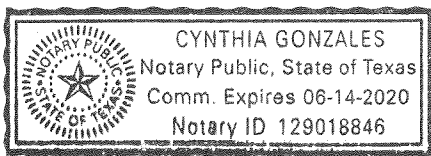
FALL CREEK HOMEOWNERS ASSOCIATION, INC.,
a Texas non-profit corporation

By: [Signature]

Print Name: Jonathan Jones, Secretary

THE STATE OF TEXAS §
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COUNTY OF HARRIS §

BEFORE ME, the undersigned notary public, on this 13th day of September, 2016 personally appeared Jonathan Jones, Secretary of Fall Creek Homeowners Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose and in the capacity therein expressed.



[Signature]
Notary Public in and for the State of Texas

Return to:
Sipra S. Boyd
ROBERTS MARKEL WEINBERG BUTLER HAILEY PC
2800 Post Oak Blvd., Suite 5777
Houston, Texas 77056

RP-2016-417421

RP-2016-417421
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09/16/2016 12:32 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$36.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

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.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2016-417421