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**HOMEOWNER'S ASSOCIATION, INC.**

**Notice and Hearing; Schedule of Fines Policy**

**WHEREAS**, the Board of Directors (the "Board") of [            ] Homeowner's Association, Inc, (the "Association") wishes to amend the guidelines established regarding the Notice and Hearing; Schedule of Fines Policy recorded on [            ], [            ]; and

**WHEREAS**, the Board wishes to amend these reasonable guidelines in compliance with Section 209.005 of the Texas Property Code ("Section 209.005") regarding Notice and Hearing; Schedule of Fines; and

**WHEREAS**, the Board intends to file these guidelines in the real property records of each county in which the subdivision is located, in compliance with Section 209.005 of the Texas Property Code; and

**WHEREAS**, this policy may be amended at any time and from time to time by the Board of Directors without amending the Bylaws and as a stand-alone policy to comport with industry standards, to amend or revise provisions of the policy as may be deemed necessary and in the best interest of the Association; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for Notice and Hearing; Schedule of Fines Policy are established by the Board:

**NOTICE AND HEARING; SCHEDULE OF FINES**

Notice and Hearing.

(a) Prior to the imposition of any fine for a violation of the Declaration or the levying of any special individual assessment on an Owner, the Association will give at least one (1) notice of not less than five (5) days (unless violation is deemed an emergency, constitutes a safety or health hazard, or is a non-curable violation) each to the Owner in compliance with the Declaration and/or Section 209.006 of the Texas Property Code (the "**Property Code**"), as the same may be hereafter amended. Notices as described above are not required for situations deemed to be an emergency, constitutes a safety or health hazard or poses any kind of health or safety issue, or deemed a non-curable violation by the Board. Notice(s), as a general rule shall follow the schedule below notwithstanding, it is to be understood this is a guide and in no way prevents the Association or its Managing Agent from deviating from this schedule when it is deemed in the best interest of the Association or its Residents to do so:

First Notice shall be sent regular U.S. mail unless a non-curable violation is issued under instruction of the Board or at the discretion of the Managing Agent, at which time such notice shall be sent certified mail. ***Delivery of any First Notice as well as any subsequent notices may also be delivered by e-mail or by posting to the door of the Residence*** in addition to or in lieu of other means of notification so long as such delivery does not conflict with the requirements of the Texas Property Code. Notwithstanding, any violation considered to be an emergency or considered to threaten, in any capacity, the health, safety and welfare of Residents may be

delivered by posting to the door of the violating Property Owner or by e-mail to the e-mail address on file with the Association.

(i) Second Notice of Violation may be sent using one of two choices; a Second Notice of Violation with additional time to abate the violation or a Fine Warning Notice. Regardless of which notice is used, the notice must be sent certified and regular U.S. mail. Second Notice and Fine Warning Notice must inform the Owner of his/her right to a Hearing as described below.

(ii) Notice of Fine Levied (**Notice of Fine**) shall be delivered by certified and regular U.S. mail.

(iii) The notice must describe the violation or property damage that is the basis for the fine for such violation, and state any amount due the Association from the Owner.

(iv) The notice must inform the Owner that the Owner is entitled to a reasonable time to cure the violation and avoid the fine and that the Owner may request a hearing as outlined in the Declaration and Section 209.007 of the Texas Property Code on or before the 30th day after the Owner receives the notice.

(b) In compliance with Section 209.007 of the Texas Property Code, if the Owner submits a written request for a hearing, the Association shall hold a hearing not later than the thirtieth (30th) day after the date the Board receives the Owner's request, and shall notify the Owner of the date, time and place of the hearing in compliance with the Texas Property Code, but at least ten (10) days before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period not to exceed the maximum number of days allowed under Texas Property Code. If the hearing is to be held before a committee appointed by the Board, the notice shall state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board.

(c) Provided that such Owner has not requested a hearing in accordance with the above and the violation has not been cured, then the Association shall continue to levy fines per the schedule below, notwithstanding, the schedule provided is a guide and does not constitute a hard and fast rule as the amount of fine a Board can levy for an Owner's non-compliance. Some violations, depending upon the severity or repetition, may warrant more stringent fine enforcement or may warrant a one-time fine in lieu of fining in increments. The amount and frequency in which a fine is levied is at the sole discretion of the Board. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard, pursuant to Section 209.006 and Section 209.007 of the Texas Property Code.

Any fine levied shall be reflected on the Owner's periodic statements of account or delinquency notices. The number of notices set forth below does not mean that the Board is required to provide each notice prior to exercising additional remedies as set forth in the Declaration. The Board may elect to pursue such additional remedies at any time in accordance with applicable law.

**FINES:**

<b>Violation:</b>	<b>Fine Amount:</b>
Notice of Fine Levied – 1 <sup>st</sup> Fine Notice	Minimum first fine of \$50.00, notwithstanding, greater fines can be levied depending upon the nature, severity, and reoccurrence of the violation.
Notice of Fine Levied – 2 <sup>nd</sup> Fine Notice	Not less than \$100.00 depending upon the nature, severity, and reoccurrence of the violation
Notice of Fine Levied - 3 <sup>rd</sup> Fine Notice	Not less than \$150.00 depending upon the nature, severity, and reoccurrence of the violation
Notice of Fine Levied – 4 <sup>th</sup> Fine Notice & Beyond	Fine will increase an additional \$50.00 every week until Owner cures the violation

**Note:** Once a fine has reached the maximum fine amount, if applicable, as set forth in the Declaration and the Owner has not cured the violation, the fine process will continue at the rate of \$[ ] .00 per week until the violation is cured. The Association shall send **one (1) additional notice** notifying the Owner fines will continue until the violation is cured and thereafter, the Association will not be required to notify the Owner further and may continue to fine until the violation is cured or the Association determines that self-help action is required or warranted. The Association shall submit a statement of account to the Owner at least once per month during the fining process.

This policy may be amended at any time and from time to time by the Declarant during the Declarant Control Period and thereafter by the Board of Directors as a stand-alone policy to comport with industry standards, to amend, revise provisions of the policy, or rescind all or any part of the policy, as may be deemed necessary and in the best interest of the Association. Any amendment to the policy shall be mailed to each homeowner and a copy placed on the Association's website if applicable.

[Signature Page to Follow]

**IT IS FURTHER RESOLVED** that this Policy replaces and supersedes, in all respects, all prior policies and resolutions addressing the Notice and Hearing; Schedule of Fines Policy by the Association, and is effective upon its filing with the office of the county clerk, and shall remain in force and effect until revoked, modified, or amended by the Board.

**IN WITNESS WHEREOF**, the Board has caused this Policy to be executed by its duly authorized representative as of the \_\_\_\_ of \_\_\_\_\_, 20\_\_.

[ \_\_\_\_\_ ] Homeowner’s Association, Inc., a  
Texas non-profit corporation

Name: \_\_\_\_\_

Title: \_\_\_\_\_, Board President

The undersigned, being the duly appointed and authorized Secretary of [ \_\_\_\_\_ ] (the “Association”), a Texas nonprofit corporation, do hereby certify that this Notice and Hearing; Schedule of Fines Policy was amended by the Board of Directors by at least majority vote on the \_\_\_\_ day of \_\_\_\_\_, 2023, and are in full force and effect.

By: \_\_\_\_\_

Title: \_\_\_\_\_, Board Secretary

