

# WESTWOOD HILLS

## ENFORCEMENT OF COVENANTS, RESTRICTIONS & NEIGHBORHOOD RULES AND REGULATIONS

Enforcement of the Westwood Hills covenants and restrictions, and duly-adopted rules and regulations of the Westwood Hills HOA, Inc., is a vital function of the Homeowners Association. The Westwood Hills Board of Directors hereby adopts the following rules and procedures for enforcement of all covenants, restrictions, rules, and regulations applicable to our neighborhood association:

1. Enforcement Procedure. The Board may impose fines or suspend/cancel membership privileges in accordance with the Association's covenants, restrictions, and by-laws once the Association has sent or delivered written notice to the Owner and/or violator as provided below.
  - A. Complaint. Any Owner within the community may send the Association a formal, written complaint via either electronic mail or regular mail of a covenant, restriction, or rule violation, with as much information as is known. Complaints may also be initiated by the HOA Manager or any member of the Board of Directors. If an oral complaint cannot be independently verified by the Board or its designated agent(s), the Board may take only limited enforcement action. The Board shall have the authority to determine whether a written complaint is justified before continuing with the Notice and Hearing Procedure.
  - B. Notice of Alleged Violation. A Notice of Alleged Violation of any provisions of the Area Declaration, Declaration of Restrictions, Bylaws, or duly-adopted rules and regulations shall be provided in writing to the applicable Owner as soon as reasonably practicable following the receipt of a complaint or discovery by the Board of such violation. The Board may also, at its option, provide a copy of such notice to any non-Owner violator. The notice shall describe the nature of the violation and the possible fine that may be imposed, the right to request a hearing before the Board to contest the violation or possible fine, and may further state that the Board may seek to protect its rights as they are specified in the governing legal documents. Violation notices may be delivered either by hand delivery or regular U.S. Mail to the mailing address provided by the Owner to the Association. In the event that hand or mail delivery cannot be successfully completed due to circumstances outside of the Association's control, the Association may deliver a violation notice by e-mail at the e-mail address provided by the Owner to the Association.
  - C. Request for Hearing. After receipt of a second notice of violation and possible fine, if an Owner desires a hearing to challenge or contest the alleged violation and possible fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing, within 14 days of the date of the second Notice of Alleged Violation. The request for hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the 14 day period, the Board shall determine if there was a violation based upon the information available to it, and if so, assess a fine as set forth in the fine schedule, within 14 days of the expiration of the 14 day period. The Board of Directors shall give written notice of said fine to the applicable Owner.
  - D. Board of Directors to Conduct Hearing. The Board shall hear and decide cases set for hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Owner to act as the Presiding Officer at any of the hearings. The Board shall determine whether a violation exists

and impose fine.

- E. Conflicts. Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the President of the Association prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Association member, in good standing, to serve as a voting member of the hearing board.
- F. Hearing. The Board shall inform the Owner of the scheduled time, place and date of the requested hearing by email in addition to personal delivery or regular U.S. Mail. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before complaining parties and the Owner shall have the right, but not the obligation to be in attendance at the hearing. Each party may present evidence, testimony, and witnesses. The decision of the Board at each hearing shall be based on the matters set forth in the Notice of Alleged Violation and Hearing, Request for Hearing, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors in accordance with Kansas law, all hearings shall be open to attendance by all members of the Association. If a complaining party is unable to attend the Hearing, he or she may instead submit a letter to the Board explaining the basis of the complaint.
- G. Decision. After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision. The board may impose a fine, or suspend a fine contingent upon an approved plan of action, or pursue legal action if applicable. Penalties will not accrue while the Board is determining next steps. A decision, either a finding for or against the Owner, shall be by a majority vote of the Board members present.

## 2. Fine Schedule

- A. The following fines shall be imposed for violation of the provisions of the covenants, restrictions, bylaws, rules, and regulations of the Association.

	Timeline		Action
Violation	Initial	First Warning Letter	Initial notice sent to homeowners
Violation continues	14 days after initial notification	Second Notice	Notice contains fines/enforcement rights
Violation continues	14 days after second notification	Third Notice	\$25 monthly Fine
Violation continues	90 days after third notification	Fourth Notice	\$150 monthly fine, late fees and interest. Revocation of pool key and suspension of right to vote. All in place until violation is corrected and delinquent dues, fees and interest are paid in full.
Violation continues	180 days after fourth notification	Fifth Notice	\$2500 monthly fine, late fees and interest. Revocation of pool key and suspension of right to vote.

			All in place until violation is corrected and delinquent dues, fees and interest are paid in full
Violation continues -  OR	Timeline determined by Board of Directors	HOA files decorative action for correction of the violation and levies an Individual Assessment for legal costs	Fines and revocation/suspension continues in addition to assessing for costs to repair damage caused by negligent or willful act or action taken for the benefit of individual unit
Violation continues -	Timeline determined by Board of Directors	Legal Action - lien against property	Fines and revocation/suspension continues in addition to legal action to enforce

The Board reserves the right to fine for first violation of rules that involve health and safety issues and other violations where a warning may not be deemed necessary by the Board in its reasonable discretion.

The Board may waive all, or any portion, of the fines if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the violator coming into compliance with the Association's covenants, restrictions, rules or regulations.

- B. All fines shall be due and payable upon notice of the fine and will be late if not paid within 30 days of the date that the Owner is notified of the imposition of the fine. An interest charge of 12% shall be invoked, plus a late charge of \$5.00 per month (in addition to any late charges levied on any delinquent assessment installments). All fines and late charges shall be considered an assessment and may be collected as set forth in the Declaration. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Declaration and Kansas law, including the Association's right to collect attorney fees as authorized by Kansas law.

### 3. Additional Enforcement Rights

- A. Legal Action. The Association, at any time, may pursue legal action against an Owner to enforce the provisions of the covenants, restrictions, bylaws, rules or regulations without first following the preceding notice and hearing procedures, if the Board determines that such action is in the Association's best interests.
- B. Individual Assessments. In addition to fines, the Board may levy an Individual Assessment against any Owner and Owner's Unit for those purposes set forth in the Declaration, including but not limited to, reimbursing the Association for costs incurred to repair damage caused by an Owner's negligent or willful act or for action taken for the benefit of an individual Unit.
- C. Suspension of Rights to use the Common Elements. The rights of an Owner to use the Common Elements may be suspended if the Owner is more than 30 days delinquent in payment of assessments and may be suspended if the Owner is in violation of the covenants or rules.
- D. Suspension of Right to Vote. The right of an Owner to vote shall be automatically suspended if the Owner is more than 30 days delinquent in payment of any assessment, fee, or other charge and may be suspended if the Owner is in violation of the covenants or rules.

4. Failure to Enforce. Failure of the Association to enforce the covenants, restrictions, bylaws, rules or regulations will not be deemed a waiver of the right to do so for any subsequent violations or of the right to

enforce any of the above referenced governing documents for the Association.

IN WITNESS WHEREOF, the undersigned certify that these Enforcement rules and regulations were adopted by the Board of Directors of the Association on this **24 day of September 2017.**

DRAFT