

524900

**FINING AND ENFORCEMENT POLICY  
WATERWOOD COMMUNITY ASSOCIATION, INC.**



COPY

WHEREAS, The Declaration of Covenants, Conditions recorded in the Official Public Records of Real Property of Orange County, Texas under Clerk's File No. 496166 as amended and supplemented (the "Declarations"), and any other document governing the establishment, maintenance or operation of the properties within the Community, as more particularly defined in Section 202.001(1) of the Texas Property Code are Governing Documents and Dedicatory Instruments.

WHEREAS, Waterwood Community Association, Inc. (the "Association") constitutes a property owners association under the provisions of Chapter 209 of the Texas Property Code (the "Code") and is composed of fifteen (15) or more lots;

WHEREAS, the Declaration authorizes the Association to enforce all covenants, conditions and restrictions set forth in the Declaration and to levy fines against an Owner for violations of the Governing Documents, subject to compliance with notice requirements imposed by law;

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

WHEREAS, the Board of Directors of the Association (the "Board") 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.

NOW, THEREFORE, the Board hereby adopts this Fining and Enforcement Policy (the "Policy"), as set forth below.

**FINING AND ENFORCEMENT POLICY**

1. Types of Violations

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 will 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.

1.1. 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.

1.2. 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.

1.3. 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.

2. 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 is not 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:

2.1. 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.

2.2. Violation Letter (Optional) - After the expiration of the time set forth in the courtesy letter, if a courtesy letter is sent, or as the initial notice, 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 or other enforcement action may be initiated.

2.3. 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 must be sent by certified mail or 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 must 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.

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

- (a) a description of the violation that is the basis for the enforcement action, 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 enforcement action, suspension, charge or fine;
- (c) a specific date, which must be a reasonable period given the nature of the violation, 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 45th 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.

2.5. Hearing Requested - If a hearing is properly requested by the Owner, the hearing will 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.

2.6. 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 the right to use the Common Area, and other remedies available to the Association may be implemented after the expiration of the forty-five (45) day time frame provided to the Owner to request a hearing.

2.7. Remedies - The Owner is 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, as provided in Section 6, 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.

3. 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 must be sent by certified mail or 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 must 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.

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

- (a) a description of the violation that is the basis for the enforcement action, 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 45th 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.

3.2. Hearing Requested - If a hearing is properly requested by the Owner, the hearing must 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.

3.3. Remedies - Regardless of whether the Owner requests a hearing, fines, suspension of the right to use the Common Area, and other remedies available to the Association may be implemented after mailing the demand letter. The Owner is liable for, and the Association may collect reimbursement of, reasonable attorneys' 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.

4. 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 a similar violation. The Association may impose fines or suspend the Owner's right to use the Common Area without first sending another demand for compliance.

5. Fines

Subject to the notice provisions set forth in Section 3 or Section 4 of this Policy, as applicable, the Association may impose monetary fines against an Owner in accordance with the below schedule until the violation is cured if of a curable nature.

<b>Notice</b>	<b>Fine Amount</b>
Courtesy Letter (if sent)	None
Violation Letter (if sent)	None
1st Notice of Fine Letter (Demand Letter)	\$50.00
2nd Notice of Fine Letter	\$50.00
3rd Notice of Fine Letter	\$100.00
Subsequent Notice of Fine Letters	\$200.00 + \$25.00 for every week in which the violation remains up to \$500.00
Fine Letter for Uncurable Violations	\$200.00

Any fine levied by the Association is secured by the lien established in the Declaration. A fine is also the personal obligation of the Owner. The Board of Directors of the Association may adopt and modify from time to time a schedule of fines for various types of violations.

**CERTIFICATION**

IN WITNESS WHEREOF, the undersigned, Tom Henry, as the duly elected, qualified, and acting President of Waterwood Community Association, Inc., a Texas nonprofit corporation, hereby certifies on behalf of the Association that this Fining and Enforcement Policy was duly adopted by the Board of Directors of the Association at a meeting of the Board held on Oct 11, 2022, and shall take effect upon its recording in the Official Public Records of Orange County, Texas.

WATERWOOD COMMUNITY ASSOCIATION, INC.  
a Texas nonprofit corporation

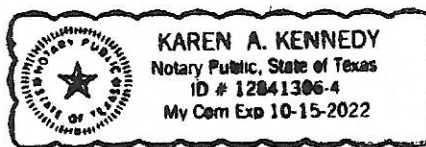
Tom Henry  
By: Tom Henry, President

THE STATE OF TEXAS       §  
COUNTY OF ORANGE       §

This instrument was acknowledged before me on the 18 day of October, 2022, by Tom Henry, acting President of the Board of Directors of Waterwood Community Association, Inc., a Texas nonprofit corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

After recording, return to:  
Sara Norman  
Nichols Norman Law Group, PLLC  
2935 Toccoa St.  
Beaumont, Texas 77703

Karen A. Kennedy  
Notary Public, State of Texas



2022 OCT 18 PM 4:10

BRUCE A. NEWSON  
Bruce A. Newson