

CAPE TRANQUILITY HOMEOWNERS' ASSOCIATION

WHEREAS, the Board of Directors (the "Board") of Cape Tranquility Homeowners' Association (the "Association") is empowered by Article IX (c) of its By-Laws to "establish, levy and access, and collect the assessments or charges" and (e) "to exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those reserved to the Members"; and

WHEREAS, the Board wishes to establish a Fining Policy to establish the procedure required for the assessment of monetary penalties or fines for Violations of the Association's Restrictions, Conditions and Covenants after due notice of the existence of a Violation and opportunity to cure such Violation; and

WHEREAS, the Board wishes to adopt this policy in compliance with Section 209.005 of the Texas Property Code; and

WHEREAS, the Board intends to file this policy in the real property records of Henderson County, Texas, in compliance with Section 202.002 of the Texas Property Code; it is

NOW THEREFORE RESOLVED that the attached Fining Policy is established by the Board:

CAPE TRANQUILITY HOMEOWNERS' ASSOCIATION
Fining Policy

A. Definitions

1. **Association**: Cape Tranquility Homeowners' Association, Inc.
2. **Governing Documents**: Any of the Association's governing documents, including the Restrictions, Covenants and Conditions, Articles of Incorporation and Bylaws.
3. **Nuisance**: Nuisances include, but are not limited to, noise, barking dogs, or offensive behavior that disrupts others from using or enjoying their own or common properties.
4. **Threats to Public Health or Safety**: Threats to public health or safety include, but are not limited to, damage to docks, roads or other common areas, unrepaired property violations after receiving notice, intentional pollution and reckless driving)
5. **Violation**: Any curable condition prohibited by the Governing Documents that has not been expressly authorized by the board. This includes, but is not limited to, parking Violations; maintenance Violations; failure to construct improvements or modifications with proper approval and in accordance with approved specifications as described in the Restrictions, Covenants and Conditions, and all other on-going Violations.
6. **Un-curable Violation**: Un-curable Violations are Violations that are not a continuous action or condition capable of being remedied by affirmative action. Un-curable Violations include, but are not limited to, noise Violations that are not on-going; an act constituting a threat to health or safety; property damage; and all other Violations that are one time or not continuous.

B. Notice of Violation

1. **Initial Notice**. Upon verification of the existence of a Violation by the board, written notice will be sent to the lot owner informing him or her of the Violation ("initial notice"). The initial notice will inform the owner as follows:
 - a. The nature, description and location of the Violation.
 - b. A request to remedy the Violation and a description of what is required to constitute satisfactory remediation.
 - c. A reasonable timeframe from the date of the notice by which the owner must remedy the Violation, if it is curable and does not pose a threat to public health or safety.
 - d. Owners have the right to request a hearing by the board on or before the 30th day after the date the notice was mailed to the owner.
 - e. If the Violation poses a threat to public health or safety, Sections c and d do not apply.

2. **Second Notice of Violation.** If the lot owner fails to remedy the Violation by the deadline provided in the initial notice, the board will send the lot owner a second notice. Failure to remedy within ten (10) days will result in the board electing to pursue any one or more of the remedies available under the Governing Documents or this policy. The remedy to be pursued will be described in the Second Notice of Violation and will be implemented upon expiration of the ten (10) day period.
3. **Failure to Remedy.** Failure to remedy the Violation existing upon the lot within the timeframe prescribed in the second notice of Violation constitutes a continuing Violation and will result in one or more of the following remedies.
 - a. A fine being levied by the Association against the lot owner pursuant to the fine schedule in Section C below.
 - b. Correction of the Violation by the Association at the expense of the lot owner pursuant to the provisions of Article VII of the Restrictions, Covenants and Conditions.
 - c. Any other remedy under law or at equity, the Governing Documents or this policy, including but not limited to injunctive relief.
4. **Un-curable Violations.** A Violation is considered Un-curable if the Violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. The non-repetition of a one-time Violation or a Violation that is not ongoing is not considered an adequate remedy. Owners will receive a warning when an Un-curable Violation occurs. If it occurs again at any time, the board will elect to pursue any one or more of the remedies available under the Governing Documents or this Policy. Uncurable Violations include, but are not limited to, threats to health or safety, noise violations that are not on-going, property damage, and holding a garage sale or other act prohibited by the Restrictions, Covenants and Conditions.
5. **Notice Requirements.** Any notice required by this enforcement policy to be given, sent, delivered or received in writing will be deemed to have been given, sent, delivered or received, when the notice is placed into the care and custody of the United States Postal Service. All notices will be sent by verified mail, return receipt requested.
6. **Cure of Violation during enforcement.** A lot owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this policy. Upon verification by the board that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist. The lot owner will remain liable for all costs, fines and attorney fees under this policy, which, if not paid upon demand, will be handled as a delinquent assessment pursuant to the Governing Documents. If a Violation reoccurs during a six (6) month period, the Violation will be considered uncured and the Violation process described above will resume where the last notice was given.

C. **Fine Schedule**

When an owner (including any family member, resident, occupant, visitor, guest, agent, licensee or tenant of the owner) violates the provisions set forth in the Association's Governing Documents, it is grounds for assessment of a monetary penalty/fine and the violating owner will be deemed responsible for the Violation(s) and the fine assessed.

If the Violation continues past default, a fine or penalty may be assessed against the owner. The penalty will be considered a personal liability of the owner. The following schedule is the time frame an owner has to cure the Violation before the Association may reassess the status of the Violation:

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Violation	First Occurrence*	2nd Occurrence*	3rd and Subsequent Occurrence*
Architectural	\$50.00	\$100.00	\$200.00
Parking Violation (unused vehicles, trailers, etc.)	\$25.00	\$50.00	\$100.00
Exterior Maintenance	\$50.00	\$100.00	\$200.00
Unapproved Tree Removal	\$100.00	\$150.00	\$200.00
Misuse of Common Areas	\$25.00	\$50.00	\$100.00
Nuisance	\$25.00	\$50.00	\$100.00
Threats to health or safety	\$100.00	\$200.00	\$300.00

* In the case of continuing Violations, such as architectural Violations, the Board may impose additional disciplinary action once every thirty (30) days, including additional fines, until the Violation is remedied.

This policy was adopted by the Cape Tranquility Homeowners' Association Board of Directors at a meeting held on April 26, 2019. The Policy became effective May 1, 2019.

This Policy is effective upon recordation in the Public Records of Henderson County, and supersedes any policy regarding records production which may have previously been in effect. Except as affected by Section 209.006 and/or by this Policy, all other provisions contained in the Declarations or any other dedicatory instruments of the Association remain in full force and effect.

Approved and adopted by the Board on this 12th day of March, 2019.

/s/ Karl Hyzer
Karl Hyzer, President

/s/ Dan Parsons
Dan Parsons, Vice-President

/s/ Joseph Greene
Joseph Greene III, Director

/s/ Bob Gordon
Robert Gordon, Director

Brad Walker
Bradley Walker, Director

CERTIFICATE OF CORPORATE SECRETARY

I hereby certify that as Secretary of Cape Tranquility Homeowners' Association, Inc. the foregoing Fining Policy was approved on the 12th day of March, 2019, at the meeting of the Board of Directors at which a quorum was present.

IN WITNESS WHEREOF, I have hereunto subscribed my name this ____ day of March, 2019..

Karen McKee, Secretary/Treasurer

STATE OF TEXAS

COUNTY OF HENDERSON

BEFORE me, on this day personally appeared Karen McKee, the Secretary of Cape Tranquility Homeowners' Association, Inc., known by me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged to me that she executed the same for the purpose herein expressed and in the capacity herein stated, and as the act and deed of said corporation.

Given under by hand and seal of office this ____ day of the month of _____ and the year of 2019.

Notary Public – State of Texas