

54
8 (3)

GOVERNING DOCUMENTS ENFORCEMENT AND FINE POLICY
for
FOUR TREES ESTATES HOMEOWNERS ASSOCIATION

THE STATE OF TEXAS §
§
COUNTY OF ELLIS §

I, Christopher Dixon President of Four Trees Estates Homeowners Association (the "Association"), certify that at a meeting of the Board of Directors of the Association (the "Board") duly called and held on the 17th day of October, 2022, 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 ("Policy") was approved by not less than a majority of the Board members in attendance.

RECITALS:

1. Article IX, Section 9.01 of the Declaration of Covenants, Conditions and Restrictions for Four Trees Estates, recorded in the Official Public Records of Real Property of Ellis County, Texas under County Clerk's File No. 2021-0004312, as same may be amended and/or supplemented from time to time ("Declaration"), and any other property which has been or may be subsequently annexed thereto and made subject to the authority of the Association grants to the Association the power and authority to enforce all covenants, conditions and restrictions set forth in the Dedicatory Instruments (as defined by the Texas Property Code).
2. Article IX, Section 9.01(e) of the Declaration also authorizes the Association to levy fines against an Owner for violations of the Governing Documents, subject to compliance with notice requirements imposed by law.
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.
5. NOW, THEREFORE, this Policy supersedes and replaces any previously recorded fine and enforcement policy.

Governing Documents Enforcement and Fine Policy for Four Trees Estates Homeowners Association

FILED FOR RECORD - ELLIS COUNTY, TEXAS
INST NO. 2245151 FILING DATE/TIME: Dec. 05, 2022 at 04:00:00 PM

WITNESSETH:

It is the policy of the Association to enforce its Governing Documents (as defined herein) as provided below.

Section 1. Definitions.

Capitalized terms used in this Policy have the following meanings:

- 1.1. **Declaration** – Declaration of Covenants, Conditions and Restrictions for Four Trees Estates, recorded in the Official Public Records of Real Property of Ellis County, Texas under County Clerk’s File No. 2021-0004312 (“Declaration”), and any other property which has been or may be subsequently annexed thereto and made subject to the authority of the Association.
- 1.2. **Governing Documents** – Each 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.

Other capitalized terms used in this Policy, but not defined herein, 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 based on the Governing Documents;
- 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.

2.4. **Common Violations** – Exemplar violations are outlined in Exhibit 1 titled “Common Violations.” This is not an exhaustive list 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.

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 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:

3.1. **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 Residential 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.

3.2. **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, and will be emailed to the Owner at the email address registered with the Association, if any. 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 Residential 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.

3.3. **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 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.

3.4. **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. The Owner's presence is not required to hold a

Governing Documents Enforcement and Fine Policy for Four Trees Estates Homeowners Association

hearing under this paragraph. The Association or Owner may make an audio recording of the hearing.

Not later than ten (10) days before the Board holds a hearing, the Association shall provide to the Owner a packet containing all documents, photographs, and communications relating to the matter which the Association intends to introduce at the hearing ("Evidence Packet"), if any. Owners are expected to provide copies of any documentary evidence the Owner intends to introduce at the hearing to the Board no later than five (5) days before the hearing. At the commencement of the hearing, a member of the Board or the Association's designated representative shall present the Association's case against the Owner. Following the presentation by the Board, the Owner or the Owner's designated representative is entitled to present the Owner's information and issues relevant to the appeal or dispute. The Board is not required to deliberate or reach a determination during the hearing. Rather, all information gleaned from the hearing may be taken under advisement by the Board. The Association or its managing agent may inform the Owner of the Board's decision in writing within thirty (30) days of the date of the hearing. If there is no written communication from the Association or the managing agent within this timeframe, the violation will remain standing. The Board may set a time limit for the hearing, to be determined at the Board's sole and absolute discretion, taking into account factors including but not limited to the complexity of the issues and the number of exhibits. The Board may communicate the time limitation in any manner to the Owner and will make every effort to communicate the time limitation to the Owner in advance of the date of the hearing. The time limitation will be strictly adhered to and is intended to strike a balance between: (i) allowing the Association ample time to present its case; (ii) allowing the Owner ample time to present the Owner's response; (iii) the Board's finite amount of time available to consider such issues. All parties participating in the hearing are expected to treat each other professionally and respectfully. The Board reserves the right to terminate a hearing if the Board, in its sole and absolute discretion, determines the hearing has become unproductive and/or contentious. The Board, in its sole and absolute discretion, reserves the right to reconvene any hearing that is terminated pursuant to this Section. This Policy does not apply to instances where the Association files a suit seeking a temporary restraining order, or temporary injunctive relief, or files a suit that includes foreclosure as a cause of action. Further, this Policy does not apply to a temporary suspension of a person's right to use Common Areas that is the result of a violation that occurred in a Common Area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the Board makes a final determination on the suspension action after following the procedures prescribed by this Policy. Owners are entitled to one hearing, unless the Board in its sole and absolute discretion agrees to allow additional hearings. In accordance with Section 209.007(e) of the Code, an Owner or the Board may use alternative dispute resolution services.

3.5. 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 thirty (30) day time frame provided to the Owner to request a hearing.

3.6. **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.

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 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.

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 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 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 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

Fine Letter for Uncurable Violations or Violations that are a Threat to Public Health or Safety	N/A	\$750.00
---	-----	----------

Any fine levied by the Association is the personal obligation of the Owner. The Board of Directors of the Association may adopt and modify the schedule of fines for various types of violations from time to time.

I hereby certify that I am the duly elected and acting President of the Association and that this Policy was approved by not less than 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 Ellis County, Texas.

TO CERTIFY which witness my hand this 20th day of October, 2022.

FOUR TREES ESTATES HOMEOWNERS ASSOCIATION

By: 

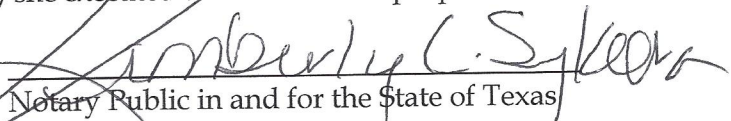
Printed: Christopher Dixon

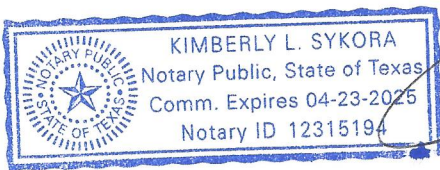
Its: President

THE STATE OF TEXAS §

§
COUNTY OF Tarrant §

BEFORE ME, the undersigned notary public, on this 20th day of October, 2022 personally appeared Christopher Dixon President of Four Trees Estates Homeowners Association, 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.


Notary Public in and for the State of Texas



Return To: Four Trees Estates
HOA
PO Box 844
Midlothian, TX 76065