

INDIAN OAKS HOMEOWNERS ASSOCIATION
COVENANT ENFORCEMENT AND FINING POLICY

WHEREAS, Indian Oaks Homeowners Association constitutes a property owners association under the provisions of Chapter 209 of the Texas Property Code (the “Code”);

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Indian Oaks Homeowners Association authorizes the Association to levy fines;

WHEREAS, Section 209.0061(b) of the Code requires the Association to adopt an enforcement policy regarding the levying of fines by the property owners’ association that includes (1) general categories of restrictive covenants for which the association may assess fines, (2) a schedule of fines for each category of violation, and (3) information regarding hearings described by Section 209.007 of the code

WHEREAS, the Board of Directors (the “Board”) of the Association desires to adopt such an enforcement policy regarding the levying of fines as required under Section 209.0061(b) of the Code to establish orderly procedures for the enforcement of the restrictive covenants set forth in the Declaration of Covenants, Conditions and Restrictions for the Association as amended from time to time (the “Declaration”), as well as the Bylaws of the Association, (the “Bylaws”), the Guidelines published on the Association’s website, (the “Guidelines”), for enforcement of any rules and regulations (the “Rules and Regulations”) and for the levying of fines, special assessments for non-compliance or damage assessments against Owners violating the Declaration, Bylaws, Guidelines and the Rules and Regulations (collectively, the “Governing Documents”);

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of the Governing Documents and for the elimination of violations of such provisions found to exist within the Association and the same are to be known as the “Covenant Enforcement and Fining Policy” (to be referred to herein as the “Enforcement Policy”) of the Association in discharge of its responsibilities for determination and enforcement of remedies for violations within the Association. With this adopted Enforcement Policy, the Board hereby authorizes itself and its delegates to carry out the functions related to enforcement of this policy in every aspect as contained herein:

- 1. Violation Definition and General Categories of Restrictive Covenants.** Any condition, use, activity or improvement which does not comply with the provisions of the Governing Documents of the Association or any damage to common area or improvements maintained by the Association, shall constitute a “Violation” under this Enforcement Policy for all purposes. A “Modification Violation” shall mean a violation

related to modifications to a house or other improvement which were not approved. A "Use Restriction Violation" shall mean a violation of any other provision of the Governing Documents.

2. Report of Violation. The existence of a Violation will be verified through field observations conducted either by a Board Member, Architectural Control Member, or its delegate. For the purpose of this Enforcement Policy, a delegate of the Board may include Management, an officer or member of the Board or Architectural Control Committee, or a member of any committee established by the Board for this purpose. A timely written report shall be prepared by the field observer for each Violation which will include the following information:

- a) Identification of the nature and description of the Violation(s),
- b) Identification by street address or legal description, if available, of the Lot on which the Violation exists,
- c) Date of the verification observation and name of the person making such observation and time of day if relevant.

3. Notice(s) of Violation.

- A. **Optional Courtesy Notice Email:** At the same time that the field observation is made, the Board or its delegate may forward to the Owner of the Lot in question a Board Approved Courtesy Notice Email, which is not considered an official notice of violation but rather a discovery of a Violation and advisory. The Owner will have, at least (10) days from the date of the Courtesy Notice Email to cure the Violation noted to the satisfaction of the Board or its delegate. The Board or its delegate may, in lieu of this notice, proceed immediately to the First Notice of Violation set forth below.
- B. **First Notice of Violation:** If the Violation is not cured within the time period specified in the optional Courtesy Notice Email, or if the Board or its delegate deem it appropriate to proceed without sending a Courtesy Notice Email, the Association will mail to the Owner of the Lot in question a written First Notice of Violation.
- C. **Second Notice of Violation:** The Owner will have at least thirty (30) days from the date of the First Notice of Violation to cure the Violation noted to the satisfaction of the Board or its delegate. If the Violation is not cured within the time period

specified, a Second Notice of Violation will be mailed.

- D. **Final Notice of Violation:** The Owner will have at least thirty (30) days from the date of the of the Second Notice of Violation to cure the Violation to the satisfaction of the Board or its delegate. If the Violation is not cured within the time period specified, a Final Notice of Violation will be mailed
 - E. **Notice of Violation Exemption:** A Notice of Violation is not required if the alleged violator received any Notice of Violation relating to a similar Violation within the proceeding six (6) months of the current Violation and was given a reasonable opportunity to cure the prior Violation. In such event, the Board may impose sanctions as authorized by the Governing Documents and/or this Enforcement Policy without notice to the Owner other than the Final Notice of Violation described above.
4. **Contents of Notice of Violation.** Any Notice of Violation shall be in writing, sent by Certified Mail to the Owner at the Owner's last known address as shown on the Association records, and the notice must:
- A. Describe the violation or property damage that is the basis for the fine or charge and state any amount due to the Association from the Owner;
 - B. Inform the Owner that he or she;
 - 1) May request a hearing under Section 209.007 on or before the 30th day after the date the notice was mailed to the Owner; and
 - 2) 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;
 - C. If the violation is of a "curable nature" and does not pose a "threat to public health or safety", the notice must also:
 - 1) Inform the Owner that he or she is entitled to a reasonable period to cure the violation and avoid the fine, and
 - 2) Specify the date by which the Owner must cure the violation in order to avoid the fine;
 - D. Describe the action necessary to remedy the violation; and
 - E. If the Violation is not cured within the time period specified in the notice, that in addition to any fines that may be levied (as authorized under the Governing

Documents), any attorney's fees and/or costs for compliance will also be charged to the Owner.

For purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident.

For purposes of this section, a violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For purposes of this subsection, the nonrepetition of a one-time violation or other violation that is not ongoing is not considered adequate remedy.

The following are examples of acts considered incurable for purposes of this section:

- (1) shooting firearms;
- (2) an act constituting a threat to health or safety;
- (3) a noise violation that is not ongoing; and
- (4) property damage

The following are examples of acts considered curable for the purposes of this section:

- (1) a parking violation;
- (2) a maintenance violation;
- (3) the failure to construct improvements or modifications in accordance with approved plans and specifications; and
- (4) an ongoing noise violation such as a barking dog.

5. **Hearings; Section 209.007, Texas Property Code.** If an Owner requests a Hearing with the Board of Directors as outlined herein (and as allowed by State Statute), the Board prior to assessing any fine or special assessment for non-compliance or damage assessment will grant such request for hearing. The Hearing shall be scheduled and conducted in compliance with Section 209.007 of the Code as supplemented below:

Sec 209.007. HEARING BEFORE BOARD; ALTERNATIVE DISPUTE RESOLUTION, (a) Except as provided by Subsection (d) and only if the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the board.

(b) Repealed by Acts 2021, 87th Leg. R.S., Ch, 951 (S.B. 1588), Sec. 22(2), eff. September 1, 2021 (c) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day 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 of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting.

(d) The notice and hearing provisions of Section 209.006 and this section do not apply if 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. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension 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 section.

(e) An owner or property owners' association may use alternative dispute resolution services.

(f) Not later than 10 days before the association holds a hearing under this section, the association shall provide to an owner a packet containing all documents, photographs, and communications relating to the matter the association intends to introduce at the hearing.

(g) If an association does not provide a packet within the period described by Subsection (f), an owner is entitled to an automatic 15-day postponement of the hearing.

(h) During a hearing, a member of the board or the association's designated representative shall first present the association's case against the owner. An owner or owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.

The hearing will be held before the Board of Directors in executive session. The hearing may take place and be conducted even if the Owner fails to appear at the hearing.

The results of the hearing will be communicated to the Owner in writing within ten (10) days from the date the hearing was conducted. The minutes of the meeting shall contain a written statement of the results of the hearing and sanction, if any, imposed by the Board or its delegate.

The cure period will be tolled upon receipt of a written request for a hearing by the Owner of the Lot in question until the hearing is concluded and the results delivered to

the Owner.

6. **Violation Cured by Owner.** If the Owner cures the Violation(s) before the expiration of the period for cure, a fine may not be assessed for the Violation, and no further action will be taken. Upon verification by written report by the Board or its delegate that the Violation has been cured, the Violation will be deemed no longer to exist. The Owner will remain liable for all costs and/or fines under this Enforcement Policy, which costs and/or fines, if not paid upon demand therefore by the Board or its delegate, will be referred to the Board for collection. Written notice of cure of the Violation may be obtained from the Board upon request for such notice by the Owner and upon payment of a fee for same.
7. **Violation Abatement by Association.** Notwithstanding any other provision contained herein to the contrary, in the event an Owner fails to cure a Violation within the time period specified in the Final Notice of Violation, the Association may proceed to enter upon the Lot to correct the Violation without further notice to the Owner other than a ten-day "Notice of Maintenance." The Association and its agents and contractors will not be liable to the Owner or any third party for trespass or any damages or costs alleged to arise by virtue of action taken under the Governing Documents and this Enforcement Policy. The Association may levy and collect the cost and expense incurred by the Association to cure the Violation(s). The cost or charge for such work shall become a personal obligation of the Owner.
8. **Referral to Legal Counsel.** Where a Violation is determined or deemed determined to exist and where the Board deems it to be in the best interests of the Association to refer the Violation to legal counsel for appropriate action, the Board may do so at any time. Such legal action may include, without limitation, sending demand letters to the violating Owner and/or seeking injunctive relief against the Owner to correct or otherwise abate the Violation. Attorney's fees and all costs incurred by the Association in enforcing the Governing Documents and administering this Enforcement Policy shall become the personal obligation of the Owner.
9. **Schedule of Fines.** Subject to the provisions of this Enforcement Policy and/or the Governing Documents, the schedule of fines or special assessments for non-compliance will be on the following basis:

A. Modification Violation(s):

- 1) If the violation is not cured within 30 days of receipt of the First Notice of Violation, the Owner shall be fined \$200.00.
- 2) If the violation is not cured within 30 days of receipt of the Second Notice of Violation, the Owner shall be fined an additional \$200.00.
- 3) If the violation is not cured within 30 days of receipt of the Final Notice of Violation, the Owner shall be fined an additional \$200.00, and the Board or its delegate may proceed with referral to legal counsel as described herein.

B. Use Restriction Violation(s):

- 1) If the violation is not cured within 30 days of receipt of the First Notice of Violation, the Owner shall be fined \$200.00.
- 2) If the violation is not cured within 30 days of receipt of the Second Notice of Violation, the Owner shall be fined an additional \$200.00.
- 3) If the violation is not cured within 30 days of receipt of the Final Notice of Violation, the Owner shall be fined an additional \$200.00, and the Board or its delegate may proceed with violation abatement and/or referral to legal counsel as described herein.

This Enforcement Policy reserves the Board's authority to levy a fine from the schedule of fines that varies on a case-by-case basis.

Imposition of fines will be in addition to and not exclusive of any other rights, remedies, and recoveries of the Association as created by the Governing Documents or this Enforcement Policy. All fines, expenses, court costs and Attorney's fees imposed against a Lot shall become the personal obligation of the Owner of such Lot and shall NOT be secured by a continuing lien upon the Lot of such Owner.

Fee for written Notice of Cure of Violation provided by the Board upon request by Owner: \$100.00

10. Third Parties Affected by Violation. Where the Board has actual knowledge that an enforcement action would directly affect a third party (e.g. a tenant or neighbor) or involves a Violation by a party other than the Owner, notices required under this Enforcement Policy may be given, if possible, to such third party in addition to the Owner. Notwithstanding any notice sent to a third party, the Owner remains the party responsible for compliance with the requirements of the Governing Documents. The

Board shall accept a response from any such third party only upon the written direction of the Owner of the Lot upon which the Violation exists.

11. Use of Representative or Agent by Owner. Where the interest of an Owner in a Lot has been handled by a representative or agent of such Owner or where an Owner has otherwise acted as to put the Association on notice that its interest in a Lot has been and are being handled by a representative or agent, any notice or communication from the Association pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.

12. Transfer of Record Title. Where an Owner transfers record title to a Lot at any time during the pendency of any procedure prescribed by this Enforcement Policy, such Owner shall remain personally liable for all costs and fines under this Enforcement Policy. As soon as practical after receipt by the Association of a notice of a change in the record title to a Lot which is the subject of enforcement proceedings under this Enforcement Policy, the board may begin enforcement proceedings against the new Owner in accordance with this Enforcement Policy. The new Owner shall be personally liable for all costs and fines under this Enforcement Policy which are the result of the new Owner's failure and/or refusal to cure the Violation in the time and manner specified under this Enforcement Policy.

13. Definitions. The definitions contained in the Declaration and Bylaws are hereby incorporated herein by reference.

14. Notices. Unless otherwise provided in the Enforcement Policy, all notices required by this Enforcement Policy shall be in writing and shall be deemed to have been duly given if delivered personally and/or if sent by Certified Mail to the Owner at the owner's last known address as shown on the Association records or, if no such address has been designated, to the address of the Lot of the Owner. Where the notice is directed by personal delivery, notice shall be deemed to have been given, sent, delivered, or received upon actual receipt by any person accepting delivery thereof at the address of the recipient as set forth in such notice or if no person is there, by leaving the notice taped to the front door of the residence. Where the notice is placed into the care and custody of the United States Postal Service, notice shall be presumed to have been given, sent, delivered, or received, as of the third (3rd) calendar day following the date of postmark of such notice bearing postage prepaid and the appropriate name and address as required herein unless otherwise shown by the recipient to have been received at a later date. Where a day required for an action to be taken or a notice to be given, sent,

delivered or received, as the case may be, falls on a Saturday, Sunday or United States Postal Service holiday, the required date for the action or notice will be extended to the first day following which is neither a Saturday, Sunday or United States Postal Service holiday.

CERTIFICATION

IN WITNESS WHEREOF, the undersigned, _____, as the duly elected, qualified, and acting President of the Indian Oaks Homeowners Association, a Texas nonprofit association, hereby certifies on behalf of the Association that this Covenant Enforcement and Fining Policy was duly adopted by the Board of Directors of the Association at a meeting of the Board held on December 30th, 2024, shall remain in force and effect until revoked, modified or amended by the Board of Directors, and shall take effect upon its recording in the Official Public Records of Hunt County, Texas.

Indian Oaks Homeowners Association, a Texas
nonprofit association

BY: _____
ITS: President

STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2024, by _____, President of the Indian Oaks Homeowners Association, a Texas nonprofit Association, on behalf of said nonprofit association.

Notary Public, State of Texas