

**GRAND PRAIRIE MOUNTAIN CREEK HOMEOWNERS ASSOCIATION, INC.**  
**FINE AND ENFORCEMENT POLICY**

1. **Background.** Mountain Creek Townhouses is a community (the “**Community**”) created by and subject to that certain Declaration of Covenants, Conditions and Restrictions for Mountain Creek Townhouses, recorded at Volume 71071, Page 0126, in the Official Public Records of Dallas County, Texas, as amended or may be amended, including the First Amended Declaration recorded at Volume 94046, Page 802 (the “**Declaration**”). The operation of the Community is vested in the Grand Prairie Mountain Creek Homeowners Association, Inc. (the “**Association**”), acting through its board of directors (the “**Board**”). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration and is vested with the right and power to levy fines and take other enforcement actions against any property owner in violation or breach of the obligations set forth in the Declaration and Bylaws.

The Board hereby adopts this Fine and Enforcement Policy to establish equitable policies and procedures for the levy of fines or other actions within the Association in compliance with Chapter 209 of the Texas Property Code, titled the “Texas Residential Property Owners Protection Act,” as it may be amended (the “**Act**”). To the extent any provision within this policy is in conflict with the Act or any other applicable law, such provision shall be modified to comply with the applicable law.

Words and phrases used in this policy have the same meanings given to them by the Declaration.

2. **Policy.** The Association uses fines to discourage violations of the Declaration, Bylaws and rules and regulations of the Association (hereinafter referred to collectively as the “governing documents”) and to encourage compliance when a violation occurs – not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types violations or violators, it is only one of several methods available to the Association for enforcing the governing documents and the Association’s use of fines shall not interfere with its exercise of other rights and remedies for the same violation. Nor may the Association use fines to the exclusion of other remedies.

This Fine and Enforcement Policy will apply to all violations of the governing documents. A violation may consist of a single act or action in violation of a provision of the governing documents (such as construction of a improvements without prior written consent of the Architectural Review Committee), or a series of acts or actions which constitute a repeated violation of the same or a similar provision of the governing documents (such as allowing debris to accumulate gradually over a period of time). This Fine and Enforcement Policy applies to both types of violations. For purposes of this Fine and Enforcement Policy, a “**Continuing Violation**” includes not only an ongoing, uncured violation of a provision of the governing documents (such as a failure to remove prohibited materials that are being stored in open view), but also any series of acts or actions which repeatedly violate the same or a similar provision of the governing documents, whether or not the violation has

been partially or temporarily cured (i.e., consistently allowing debris to accumulate, even if all or a portion of the debris has been temporarily removed).

3. Property Owner's Liability. This Fine and Enforcement Policy shall apply not only to violations of the governing documents committed by a property owner, but also to any violations committed by an occupant of a residential property in the Community, or the property owner's or occupant's family, guests, employees, contractors, agents or invitees (each, a "**Violating Party**"). The Association will seek to provide notice to All Violating Parties in addition to the property owner, but the property owner is ultimately responsible for all violations which occur on his or her property, without regard as to whether those violations were committed by an occupant other than the property owner, or the property owner's family, guests, employees, contractors, agents or invitees.
  
4. Violation Notice. Before levying a fine against a property owner for a violation of the governing documents, the Association will give the property owner written violation notice by certified mail and an opportunity to be heard. This requirement may not be waived. The Association's written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety, as well as the specific date by which such violation must be cured; (5) the amount of the fine; (6) a statement that not later than the thirtieth (30<sup>th</sup>) day after the date the violation notice was mailed to the property owner, the property owner may request in writing a hearing before the Board to contest the fine; and (7) the date the fine attaches or begins accruing, subject to the following:
  - a. New Violation. If the property owner was not given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months and the violation is of an ongoing or continuous nature that is of a curable nature and does not pose a threat to public health or safety, the notice will state a specific date by which the violation must be cured to avoid the fine or other action. If, on the other hand, the violation is one that is committed on a sporadic or intermittent basis and is not still ongoing at the time of the written notice and / or is incurable or poses a threat to public health or safety, the notice must state the specific date the fine will begin to accrue, or if appropriate in the sole discretion of the Board, that any future violation of the same restriction or rule may result in the levy of a fine or other action.
  
  - b. Repeat Violation Within the Preceding Six Months. In the case of a repeat violation of the same restriction or rule within six (6) months following a new violation notice, the repeat violation notice will state that, because the property owner was given notice and the opportunity to exercise any rights available for a similar violation within the preceding six (6) months, the fine or other action attaches and accrues from the date of the violation notice and the property owner will not be given additional opportunity to cure the violation or exercise other rights so as to avoid the fine or other action.

5. Violation Hearing. A property owner may request in writing a hearing by the Board to contest a levied fine or enforcement action. To request a hearing before the Board, the property owner must submit a written request to the Association's Board within thirty (30) days after the date the violation notice was mailed to the property owner. Within fifteen (15) days after receipt of an owner's request for a hearing, the Association will schedule a hearing and will give the property owner at least ten (10) days advance notice of the date, time, and place of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the property owner to attend. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The property owner's request for a hearing suspends only the levy of a fine or other enforcement action. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The property owner may attend the hearing in person, or may be represented by another person or written communication. If a property owner intends to make an audio and/or video recording of the hearing, such owner's request for hearing shall include a statement noticing owner's intent to make an audio and/or video recording of the hearing, otherwise no audio or video recording of the hearing may be made. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, imposed. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing or otherwise maintained by the Association. If the property owner appears at the meeting, the notice requirements will be deemed satisfied.
6. Levy of Fine. Within thirty (30) days after levying the fine or other enforcement action, the Board must give the property owner notice of the levied fine or action. If the fine or enforcement action is levied at the hearing at which the property owner is actually present, the notice requirement will be satisfied if the Board announces its decision to the property owner at the hearing. Otherwise, the notice must be in writing. In addition to the initial levy notice, the Association will give the property owner periodic written notices of an accruing fine or the application of a property owner's payments to reduce the fine. The periodic notices may be in the form of monthly statements or delinquency notices.
7. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation and does not exceed fifty dollars (\$50.00) per violation. For purposes of this Fine and Enforcement Policy, each day that a Continuing Violation exists or is ongoing constitutes a separate violation for which a property owner may be fined.

The Association may establish a schedule of fines for certain types of violations. If circumstances warrant a variance from the schedule, the Board will document the reasons for the variance in the minutes of its meeting. The amount and cumulative total of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the governing documents. If the Association allows fines to accumulate, it will establish a maximum amount for a particular fine, at which

point the total fine will be capped. For instance, if a Continuing Violation is an ongoing uncured violation of a provision of the Declaration that is of a nature that cannot be partially or temporarily cured (such as construction of an improvement without Architectural Review Committee approval), the Board can establish a maximum amount of accumulated fines that will be assessed per week or per month (such as no more than \$250 per week or no more than \$1,000 per month).

The Board reserves the right to set reasonable fine amounts or other enforcement actions on a case-by case basis. Notwithstanding, the Board has adopted the following general schedule of fines, which shall apply to all violations unless the Board, in its sole discretion, determines that a fine amount should be waived or modified in light of the nature, frequency, and effects of the violation, or that some other enforcement action is appropriate.

**Notice of Violation in a 6 month Period:**

**Fine Amount:**

1<sup>st</sup> Notice of Violation:

Warning

2<sup>nd</sup> Notice of a Same or Similar Violation

\$25 + opportunity to cure

3<sup>rd</sup> Notice of Same or Similar Violation

\$50

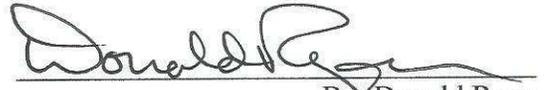
All additional notices of a same or similar violation shall include a fine, the amount of which shall be determined by the Board on a case-by-case basis based on the number of continuous or repeated days of violation and other factors cited in this Fine and Enforcement Policy. In no event shall an accumulated fine for a same or similar violation exceed \$250 per week.

8. Type of Levy. If the violation is ongoing or continuous, a fine or accumulation of fines may be levied on a periodic basis (such as daily, monthly or quarterly), beginning on the date the fine attaches or begins accruing. If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.
9. Collection of Fines. The Association is not entitled to collect a fine from a property owner to whom it has not given notice and an opportunity to be heard. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Association may not charge interest or late fees for unpaid fines.
10. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until ten (10) days after the Association delivers notice of amendment or revocation of this policy to the property owners in the Community. The notice may be published and distributed in an Association newsletter or other community-wide publication.

**GRAND PRAIRIE MOUNTAIN CREEK HOMEOWNERS ASSOCIATION, INC.**

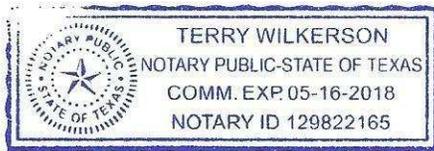
a Texas nonprofit corporation

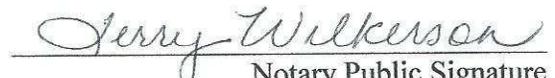
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By Donald Ryan  
Its: President

**THE STATE OF TEXAS §  
COUNTY OF DALLAS §**

This instrument was acknowledged before me on the 26<sup>th</sup> day of February, 2016 by Donald Ryan, President of Grand Prairie Mountain Creek Homeowners Association, Inc. a Texas nonprofit corporation, on behalf of said corporation.



  
Notary Public Signature

**AFTER RECORDING RETURN TO:**

Donald Ryan, President  
Grand Prairie Mountain Creek Homeowners Association, Inc.  
3402 South Belt Line Road  
Grand Prairie, Texas 75052-5928