

GRAND PRAIRIE MOUNTAIN CREEK HOMEOWNERS ASSOCIATION, INC.
AMENDED 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 (“**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 of 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 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. Owner's Liability. This Fine and Enforcement Policy shall apply not only to violations of the governing documents committed by an Owner, but also to any violations committed by an occupant of a residential property in the Community, or the 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 Owner, but the 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 Owner, or the Owner's family, guests, employees, contractors, agents or invitees.

4. Violation Notice. Before levying a fine against an Owner for a violation of the governing documents, the Association will give the Owner written violation notice 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; (5) the amount of the fine; (6) a statement that not later than the thirtieth (30th) day after the date of the violation notice, the 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 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, 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, the notice must state 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 (6) 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 Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months, the fine or other action attaches from the date of the violation notice and the Owner will not be given additional opportunity to cure the violation so as to avoid the fine or other action.

 - c. Uncurable Violation or Violation of Health or Safety. In the case that the violation is deemed to be an uncurable violation or violation posing a threat to health or safety, the Association is not required by law to provide an opportunity to cure and may impose an immediate fine. The following examples are

considered as incurable violations: (1) shooting fireworks or discharging a firearm; (2) an act constituting a threat to health or safety; (3) a noise violation that is not ongoing; (4) damaging Association property, including the removal or alteration of landscape; and (5) holding a garage sale or other event prohibited by a dedicatory instrument. This list of examples is not intended to be exhaustive, and other violations may be determined to be incurable at the discretion of the Association, through its Board, and based on the description of incurable violations set forth in Texas Property Code Section 209.006 and any other applicable statute or regulation.

- d. Notices. Any notice required by this Fine and Enforcement Policy to be given, sent, delivered, or received, as the case may be, upon the earlier to occur of the following:
- When the notice is delivered by electronic mail, the notice is deemed delivered and received when the sender “sends” the electronic mail and receives a confirmation or report acknowledging the time and date it was delivered. It is the Owner’s duty and responsibility to keep an updated electronic mail address registered with the Association.
 - When the notice is placed into the care and custody of the United States Postal Service, the notice is deemed delivered and received as of the third day after the notice was deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association. Any notice of Violation or Notice of Corrective Action shall be sent certified mail, return receipt requested, and First-Class U.S. Mail.
 - Where the lot is occupied by a tenant or where the interests of an Owner have been handled by a representative or agent of such Owner, any notice or communication from the Association or Management pursuant to this Fine and Enforcement Policy will be deemed full and effective for all purposes if given to the Owner at the address on record with the Association. The Association may, as a courtesy, also provide notice to the tenant.
5. Violation Hearing. An 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 Owner must submit a written request to the Association’s Board within thirty (30) days after the date of the violation notice. Within fifteen (15) days after receipt of an Owner’s request for a hearing, the Association will schedule a hearing and will give the 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 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 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 Owner may attend the hearing in person, or may be represented by another person or written communication. If an Owner intends to make an audio and/or video recording of the hearing, such Owner's request for hearing shall include a statement noticing the 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 imposed, if any. 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 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 Owner notice of the levied fine or action. If the fine or enforcement action is levied at the hearing at which the Owner is actually present, the notice requirement will be satisfied if the Board announces its decision to the Owner at the hearing. Otherwise, the notice must be in writing. In addition to the initial levy notice, the Association will give the Owner periodic written notices of an accruing fine or the application of an 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 is not less than fifty dollars (\$50.00) per violation. For purposes of this Fine and Enforcement Policy, each day that a Continuing Violation exists or is ongoing may constitute a separate violation for which an 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 may 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 may establish a maximum amount of accumulated fines that will be assessed per week or 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.

Curable Violations	Fine
Initial Fine	\$ 50.00
Second Fine	\$100.00
Third Fine	\$200.00
Fourth and subsequent fines	\$400.00
Uncurable Violations and Violations which pose a threat to Health or Safety	Fine
Fine	Amount not to exceed \$2,000.00 for any single violation. Total accumulated fine amounts may exceed this amount if the uncured violation is continuing or ongoing.

Unapproved ARC Modifications	Fine
Initial Fine	\$100.00
Second Fine	\$200.00
Third Fine	\$400.00
Fourth and subsequent fines	\$500.00

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. Fines and the frequency of fines are to be determined by the Board, and may be imposed every day that the violation continues to exist after the Notice of Fine date. There is no limit to the aggregate amount of fines that may be imposed for the same violation. The Owner may be notified by the Association in writing of the amount of fines accrued to the Owner's account. The Board may modify, from time to time, the schedule of fines. The Board reserves the right to adjust these fines based on the severity and/or the frequency of violation(s).

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 an 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 Owners in the Community. The notice may be published and distributed in an Association newsletter or other community-wide publication.