

**LLANO GRANDE GOLF COURSE ROAD SUBDIVISION PROPERTY OWNERS'
ASSOCIATION
FINE AND ENFORCEMENT POLICY FOR VIOLATIONS OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF THE DECLARATION, BYLAWS, AND
ASSOCIATION RULES ("GOVERNING DOCUMENTS")**

Enforcement Authority. Pursuant to the Governing Documents and Chapter 209 of the Texas Property Code (TPC), the Board of Directors is authorized to adopt this policy and impose fines.

Statement of Purpose: The Board of Directors of Llano Grande Golf Course Road Subdivision Property Owners' Association ("Association") recognizes the unique nature of the Llano Grande Golf Course Road Subdivision. The Subdivision is a quiet, adult housing community for persons fifty-five (55) years of age or older with lots being occupied pursuant to the Housing for Older Persons Act. The community has certain architectural and deed restrictions to keep the community values on par with properties in the area. The Board of Directors wishes to balance the duties, obligations, and restrictions of the Association and its members with the otherwise reasonable and free use of the property that is expected when purchasing property in a community like Llano Grande Golf Course Road Subdivision. The intent of the Board of Directors is to ensure that the community continues to be visually attractive and to protect and enhance the value of the homes and property through reasonable and equitable procedures. The policy is adopted to discourage violations of and encourage compliance with the Governing Documents.

Enforcement policy. The following policy complies with the Governing Documents and the notice requirements set forth in chapter 209.006 of the Texas Property Code. This is intended to supplement the enforcement provisions set forth in the Governing Documents and to update the enforcement provisions to reflect current changes in chapter 209. In the event of a conflict between this policy and Chapter 209, chapter 209 shall control. The Board reserves the right to amend the fine schedule.

At least one member of the board or an authorized agent shall perform a drive-through tour of the entire community at least once per every three-month period of the year in an effort to alleviate any unforeseen violations that may exist. The tour will consist of an unaided (no binoculars or zoom lenses) visual inspection from the community's streets to verify compliance with the CCRs. Photographs of apparent violations of the CCR's may be taken during the tour to assist the Board in deciding whether a condition or activity is in violation. Additional follow-up inspections may be performed to verify the nature and extent of a violation reported to the Association and/or the status of compliance or non-compliance.

Notice of Violations. Before the Board may (i) suspend an Owner's right to use a Common Area, (ii) file a suit against an Owner other than a suit to collect any Assessment, (iii) foreclose the Property Owners Association's lien, (iv) charge an Owner for property damage, or (v) levy a fine for a violation of the Governing Documents, the Property Owners Association or its agent must give written notice to the Owner by certified mail, return receipt requested. The notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine

and state any amount due the Property Owners Association from the Owner. The notice also must inform the Owner that the Owner (i) is entitled to a reasonable period to cure the violation (if such is curable and does not pose a threat to health and safety) and avoid the fine or suspension unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months and (ii) may request a hearing on or before the thirtieth day after the date the Owner receives the notice.

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 a committee appointed by the Board or before the Board if the Board does not appoint a committee. If a hearing is to be held before a committee, the notice must state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board.

The Property Owners Association must hold a hearing under this section not later than the thirtieth (30th) day after the date the Board receives the Owner's request for a hearing and must notify the Owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement will be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. The Owner or the Property Owners Association may make an audio recording of the meeting.

The hearing will be held in executive session affording the alleged violator a reasonable opportunity to be heard. Before any sanction hereunder becomes effective, proof of proper notice will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered the notice. The notice requirement will be satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may, but will not be obligated to, suspend any proposed sanction if the violation is cured within a 30-day period. Such suspension will not constitute a waiver of the right to sanction violations of the same or other provisions and rules by any person.

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.

Violations. Violations of the Governing Documents are considered incurable or curable. “**Uncurable violations**” are those that are NOT ongoing, continuous, or capable of being remedied by affirmation action, such as property damage or acts threatening public health or safety. For the

purposes herein, 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. “**Curable violations**” are those that can be corrected, such as parking violations or maintenance issues.

The following are non-exclusive examples of acts considered “UNCURABLE”:

- Shooting fireworks;
- Any act constituting a threat to health or safety;
- A noise violation that is not ongoing;
- Property damage;
- Holding an event prohibited in the CCRs.

The following are non-exclusive examples of acts considered “CURABLE”:

- parking violation after five (5) days on the property or community streets;
- maintenance violation;
- the failure to construct improvements or modifications in accordance with approved plans and specifications;
- an ongoing noise violation such as a barking dog.

Fines.

The Association may impose reasonable monetary fines against an Owner in accordance with the below schedule until the violation is cured, if of a curable nature. Fines may be assessed for any violation of the Governing Documents, including but not limited to architectural violations, violations for using a lot in a prohibited manner, failure to take required action, and failure to maintain a lot or the structures thereon.

Pursuant to Section 209.0061 of the Texas Property Code, below is a schedule of fines for each general category of violation for which the Association may assess fines. The Board, in its sole and absolute discretion, may increase or decrease the fines depending on relevant facts and history, i.e., the number of prior violations, the severity of violations, whether there are multiple simultaneous violations, the length of time to cure, the cooperation of the Owner, and/or any other applicable information.

Before imposing a fine for *curable* violations, the Board *may* (but is not required to) send a courtesy notice of the violation to encourage compliance.

The FINES for UNCURABLE acts shall be as follows:

- (a) For the first violation, the penalty shall be \$250.00
- (b) For the second violation of the same or similar provision the penalty shall be \$550.00
- (c) For all subsequent violations of the same provision, the penalty shall be \$1000.00

The FINES for CURABLE acts may be applied as often as daily and shall be as follows:

- (a) For the first violation, the penalty shall be \$100.00
- (b) For the second violation of the same or similar provision the penalty shall be \$250.00
- (c) For all subsequent violations of the same or similar provision, the penalty shall be \$500.00

All hearings will be conducted in accordance with chapter 209.007. A sample agenda is attached as **Exhibit 1**. Not later than 10 days before the Association holds a hearing, 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.

Attorney's Fees. Pursuant to Texas Property Code Sec. 209.008(a), before the Association may charge the Owner the reasonable attorney's fees and costs incurred by the Association in the enforcement of the Governing Documents, the Association must first provide the Owner with written notice (the "**Attorney's Fees Notice**") that the Association's attorney's fees and costs will be charged to the Owner if the violation continues after the Cure Date. The Attorney's Fees Notice may be included in the Chapter 209 Notice.

Collection of Fines. All fines will be billed to the Owner's account and will be payable to the Association within fifteen (15) days of the date of billing. Provided that the above Attorney's Fees Notice is provided to the Owner, after providing the Owner with the Chapter 209 Notice and an opportunity to be heard as may be required by TPC Section 209.006 and 209.007, as same may be amended, the Association has the right to collect from the Owner the Association's reasonable attorney's fees and costs incurred in connection with the enforcement of the Governing Documents. The collection of attorney's fees and costs from the Owner is subject to the applicable provisions of TPC Section 209.008. The attorney's fees and costs for which the Owner is liable shall be added to the violating Owner's assessment account and shall be secured by the continuing lien against the Owner's Lot(s) as provided in the Association's Governing Documents.

Non-exclusive Remedies. The imposition of the monetary penalties provided herein shall not be construed as an exclusive remedy and shall be in addition to all other rights and remedies to which the Association may otherwise be entitled under the TPC or its Governing Documents.

If there is any conflict between this Policy and the Governing Documents, the Governing Documents shall control.

EXHIBIT 1
Example of Agenda for Chapter 209 Hearing before the Board

Note: A Director or Officer should act as the presiding hearing officer. The hearing officer will provide introductory remarks and administer the hearing agenda.

I. Introduction:

Hearing Officer: "The Board of Directors has convened for the purpose of hearing an appeal from a determination by the Association that such owner is in violation of the Deed restrictions applicable to his or her property and/or the guidelines or rules of the Association (or from the imposition of fines by the Association for violation of the restrictive covenants applicable to his or her property and/or the guidelines or rules of the Association). The hearing is being conducted as required by Section 209.007 of the Texas Property Code, and it is an opportunity for the appealing party to discuss, verify facts, and attempt to resolve the matter at issue. The Board of Directors would like to resolve the dispute at this hearing. However, the Board of Directors may elect to take the appeal under advisement and conclude the hearing. If the matter is taken under advisement; a final decision will be communicated to the appealing party in writing within fifteen (15) days."

II. Presentation of Facts:

Hearing Officer: "This portion of the hearing is to permit a representative of the Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines, and/or penalties. After the Association's representative has finished his or her presentation, the owner or his or her representative will be given the opportunity to present photographs or other material relevant to the violation, fines, or penalties. The Board of Directors may ask questions during either party's presentation. It is requested that questions by the appealing party be held until completion of the presentation by the Association's representative."

{Conduct Presentations}

III. Discussion:

Hearing Officer: "This portion of the hearing is to permit the Board of Directors and the owner to discuss factual disputes relevant to the violation. Discussion regarding any fine or penalty is also appropriate. Discussion should be productive and designed to seek, if possible, an acceptable resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing. at any time."

IV. Resolution:

Hearing Officer: "This portion of the hearing is to permit discussion between the Board of Directors and the appealing party regarding the final terms of the settlement if a resolution was agreed upon during the discussion phase of the hearing." If no settlement is agreed upon, the Hearing Officer may: (1) request that the Board of Directors enter executive session to discuss the matter; (2) request that the Board of Directors take the matter under advisement and adjourn the hearing; or (3) advise the appealing party of the Board of Directors' decision and adjourn the hearing.