

Denton County
Juli Luke
County Clerk

Instrument Number: 195261

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DECLARATION

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***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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STATE OF TEXAS
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

MIDWAY RIDGE PROPERTY OWNERS ASSOCIATION, INC.
COVENANT ENFORCEMENT AND FINING POLICY

WHEREAS, the Midway Ridge Property Owners Association, Inc. (the "Association") is authorized to enforce the covenants, conditions and restrictions contained in the Declaration of Restrictive Covenants of the Midway Ridge Addition (the "Declaration"), the Bylaws of Midway Ridge Property Owners Association, Inc. (the "Bylaws"), and any rules and regulations, guidelines, bulletins, architectural standards, policies, and resolutions of the Association, collectively referred to herein as the "Governing Documents;" and

WHEREAS, pursuant to Section G.8 of the Declaration, the Board may levy a fine against an Owner for violation of the Governing Documents, as permitted by law; and

WHEREAS, pursuant to Section H of the Declaration, if an Owner is in violation of the Governing Documents, the Association has the right (but not the obligation or duty) to institute appropriate legal action, at law or in equity, or to take such other action as it deems necessary to cure the Owner's violation including, but not limited to, suspension of use of a common area, imposition of fines for the violation of any provision of the Governing Documents, charging an owner or a lot for property damage, or filing suit against an owner; and

WHEREAS, in order to comply with the requirements of Sections 209.006 and 209.007 of the Texas Residential Property Owners Protection Act (the "Act"), the Board of Directors of the Association desires to promulgate the following rules/policy establishing procedures for the enforcement of the restrictive covenants set forth in the Governing Documents and for the levying of fines against violating owners.

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of the Governing Documents and for the curing of violations of the Governing Documents and the same are to be known as the "Covenant Enforcement and Fining Policy" (to be referred to herein as the "Enforcement Policy").

1. **Exempted Actions/Remedies.** This Enforcement Policy and the procedures herein do not apply if the Association files suit seeking a temporary restraining order or temporary injunctive relief, or files suit to collect a regular or special assessment or to foreclose under the Association's lien, or is pursuing a self-help remedy. This Enforcement Policy and the procedures herein do not apply to efforts for collection of assessments and related costs and charges.

2. **Generally.** The steps and procedures contained in this Policy serve as a general outline of the procedures to follow for enforcement of the covenants, conditions, restrictions and rules contained in the Governing Documents; provided, however, that this Enforcement Policy does not apply to collection of assessments and related costs and charges. The Association is not bound to follow the exact procedures in every enforcement matter except as required by the Governing Documents or the Act. The procedures in this Enforcement Policy are not intended to constitute a prerequisite or condition precedent to the Association's ability to pursue a remedy to enforce against any violation or to obtain any legal relief or remedy except as required by the Act.

3. Establishment of Violation. Any condition, use, activity or improvement which does not comply with the provisions of the Governing Documents shall constitute a "Violation" under this Policy for all purposes. 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. A Violation is considered incurable if the Violation has occurred but is not a continuous action or condition capable of being remedied by affirmative action. The non-repetition of a one-time Violation or other Violation that is not ongoing is not considered an adequate remedy to the Association with respect to the enforcement of such Violation.

4. Report of Violation. Upon discovery of a Violation, the Board or its delegate may, but is not obligated to, forward to the Owner of the Lot in question written notice via regular first-class mail or via postcard of the discovery of a Violation(s) (the "Courtesy Notice"). The Owner will have at least ten (10) days from the date of the Courtesy Notice to correct or eliminate the Violation(s). The Board or its delegate may, in lieu of this notice, proceed immediately to the notice set forth in Paragraph 5 below.

5. Notice of Violation. If the Violation is not corrected or eliminated within the time period specified in the Courtesy Notice, or if the Board or its delegate deem it appropriate to proceed without the Courtesy Notice, the Association will forward to the Owner of the Lot in question written notice of the Violation(s) by certified mail (the "Notice of Violation"). A Notice of Violation is not required if the alleged violator was previously given a Notice of Violation within six (6) months of the current Violation and was given the opportunity to exercise any rights listed below in the preceding six (6) months. 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 Notice of Sanction/Fine described below. A Notice of Violation is also not required if the Act does not require it. The Notice of Violation, if required, will state the following:

- a. The date the Notice of Violation is prepared or mailed.
- b. The description of the Violation, including a reference to the rule or provision of the Governing Documents that is being violated and any property damage caused by the Owner, and state any amount due to the Association from the Owner.
- c. The proposed sanction to be imposed, including, but not limited to, the amount of any fine, suspension of rights to use Common Area, the use of self-help remedies or the amount claimed to be due from the owner for property damage.
- d. That the Owner is entitled to a reasonable period to cure the Violation and avoid the fine or sanction if the Violation is of a curable nature and does not pose a threat to public health or safety, and a description of the action required to cure the Violation, as well as specify the date by which the owner must cure the violation.
- e. A statement 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.

f. The recipient may, on or before thirty (30) days after the date the owner receives the Notice of Violation, deliver to the Association a written request for a hearing, including how and where the request for hearing should be made or delivered.

g. If a curable Violation is not corrected or eliminated within the time period specified in the Notice of Violation, or if the conduct which constitutes a Violation is committed again, or if a written request for a hearing is not made on or before thirty (30) days from the date the owner receives the Notice of Violation, that the sanctions or actions delineated in the Notice of Violation may be imposed or taken and that any attorney's fees and costs will be charged to the Owner.

If the hearing described in f. above is to be held before a committee or delegate of the Board, the Notice of Violation will state that the Owner has the right to appeal the decision of the committee or delegate to the Board.

6. Notice of Sanction/Fine. A formal notice of the sanction, fine or action to be imposed or taken, including the amount of any fine or the amount of any property damage (the "Notice of Sanction/Fine") will be sent by the Association to the Owner by regular first-class mail and by certified mail where, within the time period specified in the Notice of Violation, the Violation has not been corrected or eliminated (or, in the case of a recurring Violation, the Violation has reoccurred) or the Association has not timely received a written request for a hearing.

7. Request for a Hearing. If the Owner timely requests a hearing, the hearing shall be held in executive session of the Board or a committee appointed by the Board affording the alleged violator a reasonable opportunity to be heard. The Association will notify the Owner in writing of its decision and action. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine or charge, if any, imposed, or abatement or suspension action, if any, authorized.

8. Appeal. Following a hearing before a committee of the Board, but not the Board, the Owner shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the manager, president or secretary of the Association within thirty (30) days after the date of the Association's written notice to the Owner of the results of the hearing. Any hearing before the Board shall be held in the same manner as provided above for hearings before a committee appointed by the Board.

9. 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, filing a notice of violation or non-compliance against the Lot in the real property records, seeking injunctive relief

against the Owner to correct or otherwise abate the Violation, and/or filing suit to collection fines and/or costs incurred to cure Violations or repair property damage. 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.

10. Fines. Fines will be based on an amount that is reasonably related to the nature of the Violation. The Board shall have final discretion in determining the appropriate fine for the Violation in question. The Board may adopt and amend, from time to time, a schedule of fines generally applicable to Violations within Midway Ridge which may include a progression of fines for repeat offenders. Despite the existence of a schedule of fines, the Board, in its sole discretion, may impose a fine that is less than or greater than the fine amount in the fining schedule, based upon the facts and circumstances surrounding the Violation. Subject to the provisions of this Enforcement Policy and/or the Governing Documents, the initial schedule of fines is as follows:

a. For curable Violations, in the event that the Owner has not cured the Violation within the requested time period (or, in the case of a recurring Violation, the Violation has reoccurred), has not made a timely written request for a hearing, or the Board subsequent to a hearing decides to levy a fine, the fining schedule shall be as follows:

First fine: \$ 50.00, and 14 additional days to cure
Second fine: \$ 75.00, and 14 additional days to cure
Additional fines: \$ 100.00 every 14 days until the violation is cured.

b. For incurable Violations, as determined by the Board, the fine shall be in an amount to be set by the Board, up to \$2,000.00 per Violation.

c. 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.

11. Other Remedies.

a. suspending any Owners, lessees, occupants, invitees and licensees right to use the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

b. exercising self-help to cure violations, remove violations, and/or take any action to cure or remedy any violation or condition that violates the Governing Documents;

c. filing suit in law or in equity, or both, to enjoin any violation or to recover monetary damages, or both;

d. charging an Owner for property damage caused by the Owner or his or her family, guests, invitees, occupants, or lessees; and

- e. taking any other action to abate a violation of the Governing Documents.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. If the Association prevails in any action to enforce the Governing Documents, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs reasonably incurred in such action.

12. 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 United States Mail, first-class postage prepaid, to the Owner at the address which the Owner has designated in writing and filed with the Secretary of the Association or, if no such address has been designated, to the address of the Lot of the Owner.

- a. 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.

- b. 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.

- c. 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.

- d. Where the Board has actual knowledge that an enforcement action would directly affect a third party (e.g. a tenant or a 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.

- e. Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so 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.

f. 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 correct or eliminate the Violation in the time and manner specified under this Enforcement Policy.

13. Cure of Violation During Enforcement. An Owner may correct or eliminate a curable Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy. If the Owner corrects or eliminates a curable Violation before the cure period provided for in the Notice of Violation, a fine may not be assessed for the Violation. If the Owner corrects or eliminates a curable Violation after the cure period provided for in the Notice of Violation, the Owner will remain liable for all costs and fines incurred or levied under this Enforcement Policy. Upon verification by the Board that the Violation has been corrected or eliminated, the Violation will be deemed to no longer exist.

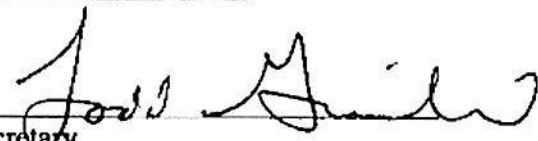
14. Definitions. All definitions contained in the Association's Governing Documents are hereby incorporated herein by reference.

15. Severability and Legal Interpretation. In the event that any provision herein shall be determined by a court with jurisdiction to be invalid or unenforceable in any respect, such determination shall not affect the validity or enforceability of any other provision, and this Enforcement Policy shall be enforced as if such provision did not exist. Furthermore, in the event that any provision of this Enforcement Policy is deemed by a court with jurisdiction to be ambiguous or in contradiction with any law, this Enforcement Policy and any such provision shall be interpreted in a manner that complies with an interpretation that is consistent with the law. In the event any provision of this Enforcement Policy conflicts with the Declaration, the Declaration controls.

IT IS FURTHER RESOLVED that this Covenant Enforcement and Fining Policy is effective upon adoption and recordation hereof, to remain in force and effect until revoked, modified or amended.

This is to certify that the foregoing resolution was adopted by the Board of Directors at a meeting of same on _____, and has not been modified, rescinded or revoked.

Date: 11/23/2020


Secretary

STATE OF TEXAS)
COUNTY OF Penton)

BEFORE ME, the undersigned authority, on this day personally appeared Todd Greenfield the duly authorized agent of Midway Ridge Property Owners Association known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes and consideration therein expressed on behalf of said corporation.

Subscribed and sworn to before me on this 23rd day of November 2020,
2020.

Brittany Lauren Lajaunie
Notary Public

