

THE RESERVE AT PATTERSON CREEK HOMEOWNERS ASSOCIATION
FINE AND DUE PROCESS POLICY

A. Responsibility of Owners

All Owners are fully responsible for compliance with the governing documents by their animals, guests, tenants, invitees, or other occupants of their Lots. Owners are responsible for Common Expenses and damage to property caused by them or their animals, guests, tenants, invitees, or other occupants of their Lots.

B. Violation Complaints

Since many individuals are not aware that their actions are in violation of the governing documents or a concern to their neighbors, residents are encouraged to first contact the parties involved to request resolution of the violation prior to submitting a written complaint.

All violation complaints must be submitted in writing (e-mail accepted) to the Board and should include the specifics of the violation (date, time, persons involved, location or Lot, etc.) and the identification of the complainant.

C. Board Determination Regarding Enforcement Action.

The Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the governing documents, including whether to compromise any claim made by or against it.

The Board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

1. The Association's legal position does not justify taking any or further enforcement action;
2. The covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law;
3. Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
4. It is not in the Association's best interests to pursue an enforcement action.

The Board's decision to not pursue enforcement under one set of circumstances does not prevent the Board from taking enforcement action under another set of circumstances, but the Board may not be arbitrary or capricious in taking enforcement action.

D. Fines

1. An Owner may be assessed a fine for a violation of the Association's governing documents. The fines shall be assessed against the Lot and collected as delinquent Assessments if not paid by the due date.

2. Any violation by an Owner, or the animals, guests, tenants, invitees, or other occupants of a Lot shall be treated as a violation by the Owner and any fine or Common Expense resulting from that violation shall be assessed against the Lot.

3. Failure of the Association to act on any violation shall not constitute a waiver on the part of the Association to act on such violation or future similar violations as the Board deems appropriate.

4. To regulate the number of violations, the Board has instituted the following process and fine schedule for repeat or unresolved violations. Except as otherwise provided in the governing documents and except for serious violations that compromise the health and safety of residents or the integrity of the property, the following actions will be taken in the event of a violation:

Notice of Violation: A violation notice will be sent to the Owner except as otherwise noted in this policy. The violation notice will state the required measures to be taken by the Owner to resolve the violation and the date by which the measures must be completed to avoid a fine (if applicable). The violation notice will also advise the Owner of their opportunity to contest the violation.

Official Warning of Violation: If the violation is not corrected by the agreed timing either as defined within the first notice or by the Owner's previous commitment to correct an issue an Official Warning (second notification) will be sent to the Owner.

Initial Fine Violation or Ongoing Violations: If the Owner does not resolve or contest the violation by the deadline given in the initial notice of violation, the official warning, or if the violation is repeated, a fine of up to \$50.00 may be assessed against the Lot and a third violation notice shall be mailed to the Owner, advising of the amount of the fine and the Owner's opportunity to contest the violation. The notice will again state the required measures to be taken by the Owner to resolve the violation and the date by which the measures must be completed to avoid additional fines.

Ongoing Violations (fourth communication): If the Owner does not resolve or contest the violation by the deadline given in the third violation notice or if the violation is repeated, a fine of up to \$150.00 may be assessed against the Lot.

Subsequent and Ongoing Violations: Repeat and unresolved violations are subject to additional fines of up to \$10.00 per day or up to \$150 per occurrence and possibly legal action against the Owner, as determined by the Board in its sole discretion.

5. The Board may elect to forego the first two notices to address serious violations that compromise the health and safety of residents or the integrity of the property and may assess fines of up to \$500 for such violations.

6. If a fine is not paid as required, it will be treated as a delinquent Assessment and will be subject to all of the collection remedies detailed in the governing documents.

7. Owners who receive violation notices may respond in writing to the Board or Association manager. The Board will consider the responses and justifications of the Owner before taking subsequent action.

E. Fine Schedule

Violation	Action or Fine Amount
Notice of Violation	Warning
Official Warning	Warning
Initial Fine Violation (Third Communication)	Up to \$50.00
Second Fine Violation (Fourth Communication)	Up to \$150.00
Subsequent or Ongoing Violations	\$10 per day or up to \$150 per occurrence
Serious Violations	Up to \$500

F. Due Process/Appeal Procedure

The following procedures allow members of the Association and the Board to review issues and evidence of a contested violation or proposed enforcement action:

1. All Owners have the right to be “heard” before a panel of their peers (“Hearing Panel”) if the Owner contests the violation or proposed enforcement action.

2. To obtain a hearing, the Owners shall request a hearing from the Board, in writing, within ten (10) days of the initial notice of violation.

3. The Board or Association Manager will respond to the hearing request within thirty (30) days following receipt of the written request. Once the hearing is scheduled, if any party desires to reschedule the hearing, the other party shall be notified at least ten (10) days prior to the scheduled date of the hearing.

4. The Hearing Panel will consist of three (3) Owners one of whom shall be a Board Member and the other two may be Board Members. The Board shall determine who is on the Hearing Panel. None of the Hearing Panel members shall be a party to the complaint. The hearing participants will consist of:

- a. The Hearing Panel members;
- b. The party bringing the complaint;
- c. The party requesting the hearing (who shall be an Owner);
- d. Witnesses, if not included in above; and

e. Any other Owner who has an interest or concern related to the complaint.

5. The hearing will be informal with a Hearing Panel member acting as chair. All sides will present evidence, witnesses and testimony regarding the validity, non-validity, or other issues relevant to the complaint. The time allowed for such evidence, witnesses and testimony may be limited by the Hearing Panel. Minutes of the hearing will be kept by the Hearing Panel or person designated by the Hearing Panel. All evidence presented at the hearing shall become the property of the Association.

6. If a hearing is requested and any of the parties fail to appear at the hearing, the Hearing Panel will base its findings on information presented at the hearing.

7. Within five (5) working days of the hearing, the Hearing Panel shall prepare written findings and recommendations to the Board (if the Hearing Panel is comprised of members other than Board members). At the next regular Board meeting, or special meeting called for that purpose, the Board will consider the findings and recommendations and accept, reject, or modify the recommendations or take other appropriate action.

8. Notice of the Board's determination shall be provided to the parties.

9. Any party has a right to appeal the Hearing Panel finding and recommendations by submitting a written request to the Board within ten (10) days of the notice of the findings and recommendations; except that no new hearing shall be held in the event the party requesting the appeal failed to appear at the original hearing.

10. The Board may decline to hold the second hearing if it determines that there is no pertinent new information to be considered.

11. Nothing contained herein shall prevent the Association from taking any action to recover the cost of damages, to seek injunctive relief, or both. In the event the Association commences a lawsuit or undertakes other legal action, it shall be entitled to reasonable attorneys' fees, expenses, and costs incurred for such action if it is the substantially prevailing party.

12. It is highly recommended that the parties resort to mediation before any lawsuit is undertaken.

This Fine and Enforcement Policy was approved by the Board of Directors on
26th September, 2023.

It shall be effective as of 27th September, 2023.

THE RESERVE AT PATTERSON CREEK HOMEOWNERS ASSOCIATION

By: _____

Print Name: SANJAY TIKU, President