



**FINE SCHEDULE OF  
BRIAR GROVE HOMEOWNERS ASSOCIATION, INC.**

**WHEREAS**, the property affected by this Fine Schedule is subject to certain dedications, covenants and restrictions, recorded under Clerk's File Nos. 2005-125173 and 2008-060251, of the Official Public Records of Real Property of Montgomery County, Texas (collectively the "Declaration"); and

**WHEREAS**, pursuant to the authority vested in BRIAR GROVE HOMEOWNERS ASSOCIATION, INC. (the "Association") under the Declaration and pursuant to the express authority of the TEXAS PROPERTY CODE, the Board of Directors of the Association (the "Board") hereby promulgates the following Fine Schedule; and

**WHEREAS**, Pursuant to Article X of the Declaration, the Board of Directors of the Association is authorized to adopt, amend, repeal and enforce various rules and regulations and fines, as it deems necessary or desirable with respect to the interpretation and implementation of the Bylaws, Architectural Guidelines and Regulations, and the Declaration; and

**WHEREAS**, the Association desires, pursuant to the authority set out in the Declaration, and as set out in Chapter 204.010 of the TEXAS PROPERTY CODE, to adopt a Fine Schedule and to impose, implement and levy fines as set out in the Fine Schedule, and as may be deemed necessary or desirable, as determined by the Board of Directors of the Association, for the interpretation and implementation of the Bylaws, Architectural Guidelines and Regulations, and the Declaration.

**NOW, THEREFORE**, for the purpose of adopting a Fine Schedule for the implementation and enforcement of the Bylaws, Architectural Guidelines and Regulations, and the Declaration; be it

**RESOLVED** by the Board of Directors of BRIAR GROVE HOMEOWNERS ASSOCIATION, INC., that the following Fine Schedule be adopted.

**FINE SCHEDULE**

1. The Board hereby adopts this Fine Policy to establish equitable policies and procedures for the levy of fines within the Subdivision in compliance with the provisions of the TEXAS RESIDENTIAL PROPERTY OWNERS PROTECTION ACT (the "Act") found in Chapter 209 of the TEXAS PROPERTY CODE. To the extent any provision within this policy is in conflict with the Act or any other applicable law, such provision shall be automatically modified to comply with the applicable law. Words and phrases used and not otherwise defined 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 (collectively the "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 Documents. The Association's use of these methods does not interfere with its exercise of other rights and remedies for the same violation.

3. **Owner's Liability.** An Owner is liable for any fines levied by the Association for violations of the Documents by the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors. Regardless of who performs the violation, the Association will direct its communications to the Owner.
  
4. **Violation Notice Required for Curable Violations.** The Association may give one or more written notices of the violation via regular first-class mail, pursuant to its discretion. Before levying a fine, the Association will provide the Owner a written violation notice, by certified mail, return receipt requested, as required by TEXAS PROPERTY CODE 209.006, and an opportunity to be heard. This requirement may not be waived. In any event, the Association's written violation notice must 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 and a reasonable time period to take such action; (5) the action to be taken and/or the amount of the fine, if any; (6) a statement that not later than the 30th day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine; and (7) the date the fine attaches or begins accruing (the "Start Date"), 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, the notice will state a specific date by which the violation must be cured to avoid the fine, if the violation is ongoing or continuous. If the violation is not ongoing, but is instead sporadic or periodic, the notice must state that any future violation of the same rule may result in the levy of a fine.
  
  - b. **Repeat Violation.** In the case of a repeat violation, the 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 attaches from the date of the violation notice.
  
5. **Uncurable Violations.** The Association may fine for uncurable violations without providing a reasonable time period to cure the violation, as set out in the notice required in paragraph 4 above.
  
6. **Violation Hearing.** An Owner may request in writing a hearing by the Board to contest the fine. To request a hearing before the Board, an Owner must submit a written request to the Association's manager within thirty (30) days after the date of the violation notice. Within thirty (30) days after Owner's request for a hearing, the Association must hold a hearing. The Association must provide the Owner with at least ten (10) days notice of the date, time, and place of the hearing. The hearing will be held in a regular session of the Board, or at an executive session at the Board's discretion. 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. The minutes of the hearing must contain a statement of the results of the hearing and the fine and/or other action, if any, imposed. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied.

7. **Levy of Fine.** Within thirty (30) days after levying any fine, the Board must give the Owner notice of the levied fine. If the fine 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.

8. **Amount of Fine.** The Association establishes the following 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.

**1st Offense:** Resident will receive a warning letter requesting that the violation be corrected within 10 days of the date of the letter, or communicate with IMC Property Management to negotiate alternate arrangements if extenuating circumstances exist. Failure to do so will result in a \$25.00 fine.

**2<sup>nd</sup> Offense:** For same violation, will result in a \$25.00 fine and a request to correct the violation within ten (10) days, or communicate with IMC Property Management. Failure to do so will result in an additional \$100.00 fine.

**3<sup>rd</sup> Offense:** For same violation, will result in a request to attend a Board Hearing or correct the violation. Failure to attend such hearing or to correct the violation within ten (10) days of date of the scheduled Board Hearing will result in assessment of an additional \$50.00 fine. Continued failure to correct the violation will result in additional fines of \$50.00 per month.

Notwithstanding the foregoing, the Board reserves the right to adopt a different fine amount on a case by case basis provided the fine is reasonable in light of the nature, frequency and effects of the violations.

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.

10. **Non-Exclusive Remedies.** The imposition of fines as provided herein shall not be construed to be an exclusive remedy, and shall be in addition to all other rights and remedies to which the Association may otherwise be entitled, including, without limitation, the filing of an Affidavit of Non-Compliance in the Official Public Records of Montgomery County,

Texas, and/or the initiation of legal proceedings seeking injunctive relief and/or damages, attorneys fees, costs of court and all other remedies, at law or in equity, to which the Association may be entitled.

11. **Amendment of Policy.** This policy may be revoked or amended from time to time by the Board.

This policy was duly adopted by the Board of Directors of BRIAR GROVE HOMEOWNERS ASSOCIATION, INC., on this the 13<sup>th</sup> day of February, 2019.

The Board of Directors hereby approves and authorizes the Fine Schedule.

Signed this 13<sup>th</sup> day of February, 2019.

**BRIAR GROVE HOMEOWNERS  
ASSOCIATION, INC.**

  
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President - Jorge Galaviz

FILED FOR RECORD  
02/20/2019 09:28AM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number  
sequence on the date and time stamped herein  
by me and was duly RECORDED in the Official Public  
Records of Montgomery County, Texas.

02/20/2019



County Clerk  
Montgomery County, Texas