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*L.H. Chambers*  
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**LIBERTY LAKES PROPERTY OWNERS' ASSOCIATION, INC.'S**  
**FINE AND ENFORCEMENT POLICY**

WHEREAS, Liberty Lakes Property Owners' Association, Inc. ("**Association**") constitutes a property owners association under the provisions of Chapter 209 of the Texas Property Code ("**TPC**"); and

WHEREAS, the Association desires to adopt policies and procedures for the enforcement of its governing documents and the levy of fines within the Association in compliance with Chapter 209 of the TPC titled the "Texas Residential Property Owners Protection Act," as it may be amended from time to time.

NOW, THEREFORE, the Board hereby adopts this Enforcement and Fine Policy (the "**Policy**"), as set forth below.

**TO THE EXTENT THAT ANY PROVISION OF THIS POLICY IS IN CONFLICT WITH THE TPC OR ANY OTHER APPLICABLE LAW, INCLUDING WITHOUT LIMITATION, GOVERNING TEXAS STATUTES, REGULATIONS, AND/OR COMMON LAW (REPORTED DECISIONS), SUCH CONFLICTING PROVISION SHALL BE SUPERSEDED BY THE APPLICABLE LAW.**

**THIS POLICY SUPERSEDES ANY CONFLICTING POLICIES, RULES, AND REGULATIONS ADOPTED BY THE ASSOCIATION.**

The adoption of this Policy for the purposes stated herein is in compliance with TPC Section 202.006, requiring all property Owners' associations to file all Governing Documents in the real property records of each county in which the Property to which the Governing Documents relate is located. This Policy shall become effective as of the date it is filed in the Official Public Records of Liberty County, Texas.

This Policy may be revoked or amended from time to time by the Board. This Policy will remain effective until the Association records an amendment to this Policy in the public records of Liberty County, Texas.

**LIBERTY LAKES PROPERTY OWNERS' ASSOCIATION, INC.'S**  
**FINE AND ENFORCEMENT POLICY**

**A. Authority to Establish Rules.** The Board of Directors ("**Board**") has the right to establish and amend, from time to time, reasonable rules and regulations for (1) the administration of the Association and the Governing Documents; (2) the maintenance, management, operation, use, conservation, and beautification of the Property; and (3) the health, comfort, and general welfare of the owners and occupants, provided, however, that such rules may not be in conflict with Applicable Law or the Governing Documents.

**B. Enforcement Action.** The violation of any of the Governing Documents, as amended from time to time, and any policies, rules, and regulations which may be adopted from time to time, may result in the following enforcement action, as determined by the Association in its sole and absolute discretion:

1. suspension of the Owner's right to use a common area;
2. filing a lawsuit against the Owner (other than a lawsuit to collect an unpaid regular or special assessment or to foreclose on an Association's assessment lien);
3. charging an Owner for property damage;
4. exercising a Self Help remedy (i.e. force mow) and/or charging an Owner for the cost of same; and/or
5. levying a fine against an Owner for a violation of the Governing Documents.

The Association uses fines to discourage violations of the Governing Documents and to encourage compliance when a violation occurs, not to punish violators or to 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. The Association's use of fines does not interfere, nor constitutes a waiver of, the Association's right to exercise other rights and remedies for the same violation.

**"Self Help"** shall mean the authority, but not the obligation, of the Association, as determined by the Association in its sole and absolute discretion, to enter upon the Owner's Lot and take the necessary corrective action (i.e., the performance of the Owner's maintenance and repair obligations, such as a force mow) to bring the Owner's Lot into compliance with the Governing Documents.

**Right of Entry:** The Association shall have the right, but not the obligation, to enter into any Lot as necessary for emergency, security, and/or safety reasons, including the right to inspect the Lot to ensure the compliance with the Governing Documents. This Right of Entry may be exercised by the Board, its officers, agents, employees, managers, as well as any law enforcement and emergency personnel.

In exercising the Self Help and/or the Right of Entry, the Association and its agents shall not be held liable for trespass or any tort, or for any damages arising from or in connection with, the Association's exercise of Self Help and/or the Right of Entry pursuant to this section.

All costs incurred by the Association in connection with the exercise of a Self Help remedy and/or the Right of Entry shall be charged to the Owner of the Lot at the time when the Self Help costs were incurred. These costs (which may include, without limitation, the actual costs incurred by the Association and an administrative fee set by the Board) 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.

**C. Chapter 209 Notice Requirement.** Prior to taking enforcement action in the preceding paragraph, the Association or its counsel shall provide the Owner with the statutory notice ("**Chapter 209 Notice**") required under TPC Section 209.006, as applicable, as it may be amended from time to time.

The Chapter 209 Notice shall be mailed by certified mail and first class mail to the Owner at the Owner's last known address as shown in the Associations' records. The Association shall assess the mail costs of the Chapter 209 Notice to the Owner's account.

The Chapter 209 Notice must:

1. describe the violation or property damage that is the basis for the suspension action, Self Help remedy, charge, or fine and state any amount due the Association from the Owner, if any;
2. inform the Owner that he or she may request a hearing under TPC Section 209.007 before the Board or a designated committee on or before the thirtieth (30th) day after the date the Chapter 209 Notice was mailed to the Owner;
3. inform the Owner that, if the hearing is held before a designated committee, the Owner has the right to appeal the decision to the Board by written notice to the Board within ten (10) days of receiving the committee's decision;
4. inform the Owner that he or she may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), if the Owner is serving on active military duty; and
5. in the event of a curable violation that does not pose a threat to public health or safety, the Chapter 209 Notice must inform the Owner of the date ("**Cure Date**") by which to cure the violation and avoid the Self Help remedy, charge, fine, or suspension of privileges. The Cure Date specified in the Chapter 209 Notice must provide the Owner with a reasonable period to cure the violation.

The Chapter 209 Notice is not required for a violation for which the Owner has previously been given a Chapter 209 Notice and the opportunity to exercise any available rights under this section in the preceding six (6) months following the date of such prior Chapter 209 Notice.

Notwithstanding the foregoing, the Association may, in its sole and absolute discretion, prior to proceeding with the Chapter 209 Notice, send the Owner an initial "Courtesy Notice," which advises the Owner of the violation, requests correction of the violation, provides the time period by which to correct the violation, and describes the consequences if the violation is not corrected. The Courtesy Notice shall provide the contact information of the Board or the management so that the Owner may request further information and discuss the matter. The Association may assess the costs incurred by the Association in connection with the Courtesy Notice to the Owner's account.

Attorney's Fees. Pursuant to TPC 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.

Threat to 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. For the purposes herein, a violation is considered curable if the violation is a continuous action or a condition capable of being remedied by affirmative action on the part of the violator. The following are examples of acts considered curable for purposes herein (these are examples only and does not constitute an all-inclusive list):

1. a parking violation;
2. a maintenance violation;
3. the failure to construct improvements or modifications in accordance with the approved plans and specifications; and
4. an ongoing noise violation such as a barking dog.

If the Owner cures the violation before by the Cure Date specified in the Chapter 209 Notice, the enforcement action (i.e., the Self Help remedy, suspension action, charge, or fine) may not be assessed for the violation.

Uncurable Violations. For uncurable violations, the Association shall not provide the Owner an opportunity to cure the violation to avoid the suspension action, charge, or fine, and the Association shall have the right to exercise any enforcement remedy afforded to it under the Governing Documents, including, without limitation, the right to levy a fine or charge.

For the purposes herein, a violation is considered uncurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmation action. In

such cases, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy. (In other words, simply not repeating a one-time restrictive covenant violation does not cure the violation).

The following are examples of acts considered incurable for purposes herein (these are examples only and does not constitute an all-inclusive list):

1. shooting fireworks;
2. an act constituting a threat to health or safety;
3. a noise violation that is not ongoing;
4. property damage, including the removal or alteration of landscape; and
5. holding a garage sale or other event prohibited by a dedicatory instrument.

**D. Right to Hearing.** An Owner who has received a Chapter 209 Notice is entitled to a hearing under TPC Section 209.007 ("Chapter 209 Hearing") to appeal the fine or enforcement action. If the Owner is entitled to an opportunity to cure the violation, the Owner has the right to submit a written request for a Chapter 209 Hearing to discuss and verify facts and resolve the matter at issue before the Board.

**E. The Chapter 209 Hearing Procedures.** The procedures of appeal for the Owners entitled to a Chapter 209 Hearing shall be as follows:

1. The Owner shall make a written request to the Association for the Chapter 209 Hearing on or before the thirtieth (30th) day after the date that the Chapter 209 Notice was mailed to the Owner.
2. The Chapter 209 Hearing may be conducted by a committee appointed by the Board or before the Board if no committee is appointed. If the hearing is before a committee, the owner shall have a right of appeal to the Board with written notice to the Board by the Owner.
3. The Chapter 209 Hearing shall be held not later than thirty (30) days after the Board receives the Owner's written request for the hearing.
4. The Board shall notify the Owner of the date, time, and place of the Chapter 209 Hearing not later than the tenth (10th) day before the date of the hearing.
5. The Board or the Owner may request a postponement of the Chapter 209 Hearing and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by the agreement of the parties. The Board shall notify the Owner of the new date, time, and place of the hearing.
6. The Owner or the Association may make an audio recording of the Chapter 209 Hearing.

7. The Chapter 209 Hearing shall be a closed or executive session restricted to the Owner making the appeal and the committee appointed by the Board or if the hearing is before the Board, the members of the Board and the third parties as determined necessary by the Board, in its sole and absolute discretion, to conduct the hearing. The Owner may attend the hearing in person or may be represented by another person or written communication.
8. The Chapter 209 Hearing may be held with or without the presence of the Owner or the Owner's representative.
9. The Board shall consider the facts and the surrounding circumstances surrounding the violation and issue its written decision on the Owner's appeal within fifteen (15) days of conducting the hearing. The hearing may be conducted in accordance with the agenda attached as Exhibit A.
10. The written decision shall include the final decision and any further curative action to be taken by Owner, if any.
11. The minutes of the Chapter 209 Hearing must contain a statement of the results of the hearing and the amount of the fine or charge, if any, imposed, or suspension action, if any, authorized. A copy of the Chapter 209 Notice and request for Chapter 209 Hearing should be placed in the minutes of the hearing.

**F. Exceptions to the Chapter 209 Notice and Hearing Requirements.** An Owner is not entitled to a Chapter 209 Notice and a Chapter 209 Hearing under the following circumstances as set forth under TPC Section 209.007(d):

1. The Association files a lawsuit seeking a temporary restraining order or temporary injunctive relief or files a lawsuit that includes foreclosure as a cause of action; and
2. An Owner is not entitled to a Chapter 209 Notice and Hearing for the temporary suspension of a person's right to use the 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 after complying with the Chapter 209 Notice and Hearing requirements.

**G. Schedule of Fines.** Owners shall be subject to the following fines if the Owner fails to cure the initial violation after being sent the required Chapter 209 Notice or for any subsequent similar violation:

1. **Violations.** For continuing and/or reoccurring violations of the Governing Documents which are not cured within the specified time period contained in the Chapter 209 Notice, the fines shall be a \$25.00 initial fine for the first violation and shall be increased in \$25.00 increments for each violation thereafter within a six (6) month period following the initial violation. Each day a violation is observed during inspection shall be a separate violation from the preceding violation.

2. **Uncurable Violations.** For uncurable violations the fines shall be \$75.00 for the uncurable violation committed by an Owner.
3. **Discretion of the Board of Directors:** The Board, at its sole and absolute discretion, may increase or decrease the fines depending on relevant facts and history, for example, 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. Thus, in addition to the above-stated fine amounts, the Board may impose the fine amounts as stated in the fine schedule in the current Community Rules & Regulations, as applicable.

**H Collection of Fines.** The Association is not entitled to collect a fine or charge from an Owner to whom it has not given the Chapter 209 Notice and the opportunity to be heard, if required by TPC Sections 209.006 and 209.007. The Association may not foreclose its assessment lien on a debt consisting solely of fines.

1. **Owner's Liability.** An Owner is liable for fines levied by the Association for violations of the Governing Documents by the Owner and the relatives, guests, employees, and agents of the Owner and residents. Regardless of who commits the violation, the Association may direct all communications regarding the violation to the Owner.
2. All fines will be billed to the Owner's account and will be payable to the Association within thirty (30) days of the date of billing. Fines shall be capped at \$2,500.00 (Two Thousand, Five Hundred Dollars and 00/100) for each six (6) month period commencing as of the date of the first violation which initiates the assessment of a fine for a specific violation. The limitations shall be exclusive of attorney's fees and costs incurred by the Association for enforcement.

**I Recovery of Attorney's Fees.** 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.

**J 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, including, without limitation, the filing of an Affidavit of Non-Compliance in the Official Public Records of Liberty County, Texas, towing, if applicable, and/or the initiation of legal proceedings seeking injunctive relief and/or damages,

attorney's fees, costs of court, and all other remedies, at law or in equity, to which the Association may be entitled.

**K. Association's Right to Seek Injunctive Relief:** Notwithstanding the foregoing, the Association reserves the right to seek injunctive relief at any time regardless of the provisions herein requiring notice for violations, if the violation (i) constitutes a material danger to persons or property; (ii) will cause irreparable harm to persons or property; and/or (iii) is a nuisance as determined by the Association in its absolute and sole discretion.

**L. Other Provisions:**

The Board hereby authorizes and empowers its management to do all such things and perform all such acts as are reasonably necessary to implement and effectuate the purposes of this Policy without further action by the Board.

The terms and conditions of this Policy, as may be amended from time to time by the Board, shall bind all Owners including their heirs, successors, transferees, or assigns, and all Property as defined in the Association's governing documents, and the Property shall hereafter be held, occupied, transferred, and conveyed subject to the terms and conditions of this Policy, as amended.

If a provision of this Policy, or its application to any person or circumstance, is invalid or unenforceable, then the remainder of this Policy or the application of those provisions to other persons or circumstances shall not be affected thereby.



**CERTIFICATION**

IN WITNESS WHEREOF, the undersigned, Lisa Gloyna, as the duly elected, qualified, and acting Secretary of Liberty Lakes Property Owners' Association, Inc., a Texas nonprofit corporation, hereby certifies on behalf of the Association that this Fine and Enforcement Policy was duly adopted at a meeting of the Membership held on November 20, 2019 and continued on December 14, 2019, and shall take effect upon its recording in the Official Public Records of Liberty County, Texas.

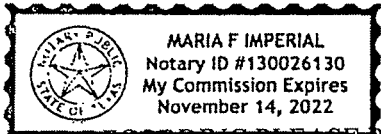
LIBERTY LAKES PROPERTY OWNERS' ASSOCIATION, INC.  
a Texas nonprofit corporation

By: *Lisa Gloyna*  
Lisa Gloyna, Secretary

THE STATE OF TEXAS    §  
COUNTY OF HARRIS    §

This instrument was acknowledged before me on the 14 day of December, 2019, by Lisa Gloyna, Secretary of Liberty Lakes Property Owners' Association, Inc., a Texas nonprofit corporation.

*Maria Imperial*  
Notary Public Signature



AFTER RECORDING PLEASE RETURN TO:

Liberty Lakes Property Owners' Association, Inc.  
c/o Lisa Gloyna, Secretary  
P.O. Box 573036  
Houston, Texas 77257

Exhibit A

Example of Agenda of Chapter 209 Hearing before the Board<sup>1</sup>

**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 by from a determination by the Homeowners Association that such owner is in violation of the restrictive covenants applicable to his or her property and/or the guidelines or rules of the Homeowners Association (or from the imposition of fines by the Homeowners Association for violation of the restrictive covenants applicable to his or her property and/or the guidelines or rules of the Homeowners 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 Homeowners Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines, and/or penalties. After the Homeowners 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 Homeowners 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.”

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<sup>1</sup> Cagle, Gregory, S. *Texas Homeowners Association Law: The Essential Legal Guide for Texas Homeowners Associations and Homeowners*, Two Harbors Press; 3rd edition (2017).

**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 into 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.