



## **Enforcement Policy for Spicewood Beach Property Owners Association**

### **Summary of Enforcement Policy**

1. Send Courtesy Warning Letter (curable violations only)
2. Send 209 Violation Notice (In accordance with Texas Property code Ch.209)
3. Levy Fines and/or damage assessments as appropriate
4. Subsequent Violation Notices

1. **Types of Violations and Acts Covered.** The Board has adopted this policy to address situations where an owner has committed or is responsible for a violation of the Restrictive Covenants of the Subdivision and/or, Rules and Policies of the Association, other than by failing to pay assessments or other sums due to the Association. Delinquency violations are handled by an alternate process. This policy also covers situations where an owner, or someone the owner is responsible for, has damaged Association property.
2. **Violation Notices.**
  - i. Courtesy Warning Letter (curable violation only) Upon becoming aware of a violation of the Restrictive Covenants that is curable (*See* Section 3(i) below) and at the sole option of the Board, the Association will send a Courtesy Warning Letter requesting that the owner cure that violation by a certain date to avoid fines or other enforcement action.
  - ii. 209 Violation Notice. If a violation is not cured in response to a Courtesy Warning letter, in addition to all other available remedies, the BOD may:
    - A. Levy a fine;
    - B. Suspend the owner's use the amenities as allowed under the governing documents ; and/ or
    - C. Charge the owner for damage to the amenities or common areas.Any such action shall be initiated by sending a 209 Violation Notice to the owner. The 209 Violation Notice shall:
    - A. Be in writing and sent certified mail to the most current owner address shown on the Association's records;
    - B. Describe the violation or property damage at issue;
    - C. State the amount of any proposed fine or property damage charge against the owner and, if the violation is incurable, the deadline for payment;

- D. State a reasonable, specific date by which the owner may cure the violation and avoid fine if the Violation is curable and does not pose a threat to public safety; ( there is no right to cure if the violation is incurable, poses a threat to health and safety, or involves damage to property);
- E. Inform the owner that they have a right to request a Board Hearing to discuss the enforcement action on or before the 30<sup>th</sup> day after the notice was mailed to the owner. (*See* section 6 below);
- F. Inform the owner that they will be responsible for any attorney's fees and costs incurred in relation to the violation if the violation continues after a specific date; such fees and costs may be assessed to the owner's account after a hearing is held or, if a hearing is not requested, after the deadline for requesting a hearing has passed;
- G. Inform the owner that he may have special rights or relief related to the enforcement under federal law, including the Service members Civil Relief Act; and
- H. Otherwise comply with Section 209 of the Texas Property Code and state law.

iii. Subsequent Violation Notices for continuing or repeat violation. If an owner has been sent a 209 Violation Notice for a particular violation and the same violation continues or a similar violation is committed within six months of the 209 Violation Notice, the Association may levy additional fines either with or without consent of the owner. If the Association Board desires to send notice of additional fines, it shall do so by means of a Subsequent Violation Notice. A Subsequent Violation Notice may be of any form and sent in any manner, as such notices are not required to comply with Section 209 of the Texas Property Code, including the requirements set forth in Section 2(ii) above.

3. **209 Violation Notices – Curable vs. Uncurable Violations**

- i. Curable Violation. Curable Violations are those that are on-going or otherwise can be rectified, such as maintenance violations (*i.e. mobile home skirting, debris on lots, overgrown grass or weeds, abandoned vehicles*), failing to construct improvements or modifications in approved plans and specifications; and ongoing noise violations.
- ii. Uncurable Violation. Uncurable violations include those that are not of an ongoing nature, involve conditions that otherwise cannot be rectified, and those that pose a threat to public health or safety. The following is a list is an example of incurable violations: shooting fireworks in neighborhood, amenity violations such as not showing proper owner stickers at amenities,

children driving golf carts, and burn pile violations, and damaging property at amenities or common areas.

4. **209 Violations Notices – When a fine or damage assessment may be imposed after a levy; Board hearings.**

- i. Curable Violations – Initial Fine. If an owner is sent a 209 Violation for a curable violation and cures that violation by the deadline in such a notice, no fine shall be assessed. If the owner fails to cure the violation by the deadline, any fine noted in the Violation Notice shall be imposed after the time has lapsed for the owner to request a Board hearing, or if a hearing is timely requested, after the date of the hearing is held and a decision is made to uphold the fine.
- ii. Uncurable Violations – Initial Fine/Damage assessment. A fine or property damage assessment may be imposed in a 209 Violation Notice for an uncurable violation, regardless of whether the owner subsequently requests a Board Hearing.
- iii. Subsequent Fines. This section 4 does not apply to fines levied after the initial fine. (*See* section 2 (iii) – Subsequent Violations, above.)

5. **Standard Fine Schedule.** - Below is the Fine Schedule for violations.

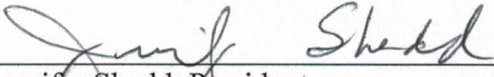
- i. Curable Violations.
  - A. Courtesy Warning Notice: No fine.
  - B. 209 Violation Notice: \$500 one time fee and/or suspension of amenities
  - C. Subsequent Violation Notices: Additional \$500 one time fee
- ii. Uncurable Violations.
  - A. 209 Violation Notice: \$25.00 fine. Or Property Damage assessment
  - B. Subsequent Violation Notice \$50.00 fine (increases \$25.00 for each additional notice).

6. **Hearings.** If an owner receives a 209 Violation Notice and requests a hearing in a timely manner, that hearing shall be held in accordance with Section 209.007 of the Texas Property Code. The Board may impose rules of conduct for the hearing and limit the amount of time allotted to an owner to present his information to the Board. The Board may either make its decision at the hearing or take the matter under advisement and communicate its decision to the owner at a later date.

7. **Forced Mows and other self-help enforcement action.** The Association may exercise self-help remedies. See Article G of the Restrictive Covenants and Easements for Spicewood Beach Subdivision.
  
8. **Owners as a Responsible Party.** If a family member, guest, tenant or invitee of an owner damages Association property or Amenities, or commits a violation of the Association's governing documents, the related enforcement action shall be taken against the owner, with all related damage assessments, fines, legal fees and other charges levied against the owner and the related lot.

Effective: March 31, 2020

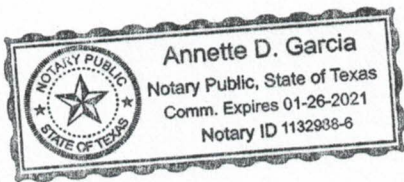
Spicewood Beach Property Owners Association Board of Directors  
By and through its designated officer


  
\_\_\_\_\_  
Jennifer Shedd, President,  
Spicewood Beach Property Owners Association President

STATE OF TEXAS

COUNTY OF Burnet

This instrument was acknowledged before me, the undersigned notary, on March 18<sup>th</sup> 2020, by Jennifer Shedd, President of Spicewood Beach Property Owners Association.



  
\_\_\_\_\_  
Notary Public, State of Texas



**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

  
\_\_\_\_\_  
Janet Parker, County Clerk

Janet Parker, County Clerk

Burnet County Texas

3/26/2020 11:09:52 AM

FEE: \$38.00

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