

Resolution of the Board of Directors of Wilshire Farms Homes Association

Covenant & Restriction Enforcement

Originally Adopted March 23, 2017

Amended September 30, 2019

Under Article III, Section 1(k) of the Wilshire Farms Homes Association Declaration (the "Declaration"), the Board of Directors (the "Board") has been granted the power and authority to do and perform all such acts as may be deemed necessary to carry out the purposes of the Declaration on behalf of the Wilshire Farms Homes Association (the "Association"). This authority includes the ability to make, amend, and revoke reasonable rules, regulations, restrictions, and guidelines by levying fines and other enforcement charges and to take such other lawful actions as the Association, in its discretion, deems appropriate.

The Board desires to preserve, promote, and enhance the value, desirability, and attractiveness of Wilshire Farms, including its residences and common areas, as well as to protect the health, safety, and general welfare of all residents within the Association by adopting procedures to address concerns and complaints related to the enforcement of the Declarations of Restrictions (the "Restrictions"). There is a need to establish orderly procedures for the enforcement of the Restrictions.

The Board, acting on behalf of the Association, revises its March 23, 2017 Resolution of the Board of Directors of Wilshire Farms Homes Association regarding Covenant and Restriction Enforcement by modifying and restating it here:

- 1) **Effective Date.** These policies and procedures shall become effective immediately and shall be posted on the Association's official communications website, eNeighbors. These policies and procedures replace all previous resolutions relating to the enforcement of the Restrictions.
- 2) **Complaints.** The Board will investigate all violation complaints (the "Violation") reported to the Board (or to the Association's property manager) in writing and signed by the complainant within 10 days after those complaints are received by the Board. Inquiries or complaints of Violation which, in the opinion of the Board, lack sufficient detail, may be returned without further investigation. The Board may also investigate verbal complaints, emailed complaints, unsigned complaints, and inquiries about Complaints from Board Members. The Board may refer the investigation to the Architectural Committee ("ARC").
- 3) **Complaint Procedure.**
 - a) **Notification to Lot Owner.** If the investigation determines that the Violation is credible, the Board shall give the Lot Owner a written Notice of Violation by regular First Class Mail; by Certified Mail, Return Receipt Requested; by email, if an email address is readily available; and by hand delivery, at the Board's discretion. Receipt by only method is required. If the resident confirms receipt by any one or more methods, or other reasonable confirmation of receipt is obtained, notification by any of the other listed methods is not required and the Board is relieved of notification by those other methods.
 - b) **Content of Notice.** The Notice of Violation sent to the Lot Owner shall set forth in

reasonable detail the nature of such violation or breach and the action or actions that must be taken by the Lot Owner to remedy such violation or breach. The Notice of Violation shall give the Lot Owner 30 days (unless a shorter period is required due to exigent circumstances) to cure the violation or to submit a plan to remedy the violation. The Notice of Violation may also contain information about the fine, suspension, or sanction to be imposed if the violation is not remedied. If this information is not included, a separate Notice of Fine, Suspension, or Sanction shall be sent under this section and the Appeal Timetable found in Paragraph No. 3(c) shall apply separately to such Notice.

- c) **Appeal Timetable.** The Lot Owner may appeal the Notice of Violation (and/or the imposition of the proposed fine, suspension, or sanction, if so included in the Notice), and may request an Appeal Hearing, by submitting a Written Appeal to the Board. The Written Appeal must be sent to the Board within 30 days of the Board sending the Notice of Violation, or all appeal rights shall be forfeited. The Written Appeal must identify the Notice of Violation being appealed, if applicable; the fine, suspension, or sanction being appealed, if applicable; and whether an Appeal Hearing is requested.
- i. If an Appeal Hearing is requested, the resident shall be given a reasonable opportunity to be heard in person by the Board. The Appeal Hearing shall be held before the Board at a regular Board Meeting or a specially called Appeal Meeting, which determination shall be in the Board's sole discretion, within 45 days of receiving the Written Appeal.
 - ii. Absent a request for an Appeal Hearing, the Board shall review and rule upon the Written Appeal at a regular Board Meeting or a specially called Appeal Meeting within 45 days of receiving the Written Appeal.
 - iii. The Appeal Hearing and/or Appeal Meeting may occur in executive session, at the Board's sole discretion, unless otherwise prohibited. The Board may hear from residents, may review materials, and may conduct its own inquiry, all in its sole discretion. The minutes of the meeting shall contain a written statement of the results of the Board's review and, if applicable, the hearing. The Board's decision on the appeal is final.
- 4) **Fines, Suspensions and Other Sanctions.** A Lot Owner who is in violation of any provision of the Restrictions shall be subject to monetary or other sanctions in accordance with this resolution. Such sanctions may include, but are not limited to, any one or a combination of the following:
- Suspension from the privileges of membership, including the right to use and enjoy all or part of the Common Areas, including the pool, clubhouse, and sports courts.
 - Suspension of waste and recycling services as contracted by the Homes Association.
 - The assessment of reasonable fines.
- 5) **Fine Amounts.** If the Lot Owner does not submit a Written Appeal within the applicable time period, or if the Board overrules the Written Appeal upon review or after an Appeal Hearing, the Board may levy a fine for each violation, not to exceed the amounts listed below for each violation:

Complaint Type	Max Fine
Non-compliant roof or shingle installation	\$10,000
Non-approved exterior house/structure paint/stain color or lack of painting	\$5,000
Concrete deterioration of sidewalk/driveway/patio/sport court	\$5,000
Fence in disrepair or installed without approval of the ARC	\$5,000
Rental lease agreement executed without notice to the Board of Directors, or otherwise improper	\$2,500
Landscaping or Gardens installed without approval of the ARC or in need of replacement as determined by the ARC or the Board	\$1,000
Building or Uses Other than for Residential Purposes; Noxious Activities	\$1,000
Exterior Structure installed without ARC approval	\$1,000
Failure to obtain ARC approval before commencing a project requiring ARC review and approval	\$1,000
Failure to maintain Lot in neat, clean, and orderly fashion, or other violation.	\$1,000

The Board may determine the fine amount using its best judgment. It may, but is not required to, base certain fines, where appropriate, on the estimated cost of the project, which may be determined after the receipt of one or more bids from professional contractors. The fine shall not exceed the amount stated above, per violation. The minimum of any fine levied shall be \$10 and the maximum shall not exceed \$10,000, per violation, exclusive of costs and reasonable attorney's fees, if warranted. *See Restrictions ¶ 9(u).*

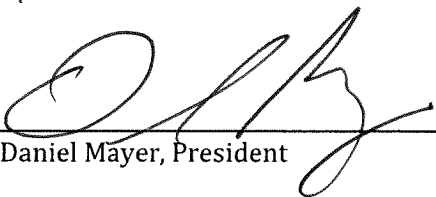
6) Unresolved Violations.

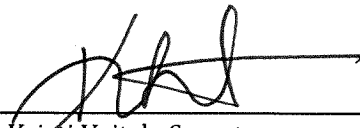
- a) If the Violation continues more than 30 days after either (i) the assessment of the fine, suspension, or sanction, or (ii) the Appeal Hearing, whichever is later, the Board may impose a fine of up to \$50 per day, not to exceed a cumulative maximum of \$10,000. *See Declaration Art. III (Powers and Duties of the Homes Association), ¶¶ (l)(d) & (l)(k); Art. V (Special Assessments) ¶¶ 1-2. See also Restrictions ¶ 9(u).*
- b) The Board may pursue all rights of action available at law or in equity, including, but not limited to, the remedy of injunctive relief and may obtain a monetary judgment for all costs, expenses, reasonable attorney fees, and damages. *See Declaration Art. VI (Delinquent Assessments); Restrictions ¶ 16 (Covenants Running with Land; Enforcement; Waivers).*
- c) The Association, through its agents and employees, may enter at all reasonable times upon any Lot for which a violation, breach, or other condition to be remedied exists. The Association may take the actions specified in the Notice of Violation to the Lot Owner to abate, extinguish, remove, or repair such violation, breach, or other condition that may exist contrary to the provisions of the Restrictions. *See Declaration Art. V (Special*

Assessments) ¶¶ 1-2. Such entry or action, or both, shall not be deemed to be a trespass or wrongful act. All costs and expenses, including reasonable attorney fees incurred by the Association or on its behalf in enforcing such violation, shall be a binding personal obligation of the Lot Owner, and may become a lien on the Lot. See Declaration Article V (Special Assessments) ¶¶ 2 & 4.

- d) Neither acceptance nor rejection by the Board or its agent of a tender of the fine, in whole or in part, ameliorates the need for the Lot Owner to cure the Violation.
- 7) **Delegation.** The Board's authority under this Resolution may be delegated, in whole or in part, to the ARC or to any other committee duly formed by the Board, provided at least one Director is a member of the committee. Notifications may be sent to or by the Association's Property Manager.
- 8) **Non-Waiver of Other Remedies.** By utilizing this resolution, the Association does not waive the right to exercise any other rights or remedies available under the Association's governing documents or under Kansas law.

Adopted by the Board of Directors of Wilshire Farms Homes Association this 30 day of September 2019

X 
Daniel Mayer, President

X 
Kristi Veitch, Secretary