Hood County Clerk
201 W Bridge Street
PO BOX 339
Granbury, Texas 76048
Phone: 817-579-3222

Document Number: 2024-0005567 -
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RESOLUTION

Grantor: ORCHARDS POA INC

Pages: 8

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Notes:

Any provision herein which restricts the Sale, Rental, or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

I hereby certify that this instrument was filed and duly recorded in the Official Records of Hood County, Texas

Katie Lang
County Clerk
Hood County, Texas

COUNTY CLERK OF HOOD COUNTY TEXAS

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STEPHANIE MATHEWS

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CAGLE PUGH, LTD. LLP
4301 Westbank Dr., Bldg. A., Ste. 150
Austin, Texas 78746

CERTIFIED RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORCHARDS PROPERTY OWNERS ASSOCIATION, INC. ADOPTION OF FINE AND ENFORCEMENT POLICY

Cross reference to that certain Declaration of Covenants, Conditions and Restrictions for Orchards on the Brazos recorded at Document Number 2013-0008080 in the Official Public Records of Hood County, Texas.

CERTIFIED RESOLUTION OF THE BOARD OF DIRECTORS OF

THE ORCHARDS PROPERTY OWNERS ASSOCIATION, INC.

ADOPTION OF FINE AND ENFORCEMENT POLICY

WHEREAS, The Orchards Property Owners Association, Inc. (hereinafter the "**Association**") is a property owners association established and governed by that certain Declaration of Covenants, Conditions and Restrictions for Orchards on the Brazos recorded at Document Number 2013-0008080 in the Official Public Records of Hood County, Texas (the "**Declaration**"), that is further subject to and governed by Chapter 209 of the Texas Property Code;

WHEREAS, Article II, Section 2.05 of the Declaration authorizes the Board of Directors (the "**Board**") of the Association to assess fines against Owners for violations of the Declaration

WHEREAS, Section 209.0061 of the Texas Property Code requires property owners associations that are authorized by their dedicatory instrument to levy fines to adopt an enforcement policy regarding the levying of fines that must include a schedule of fines and information regarding hearings described by Section 209.007 of the Texas Property Code ("**Chapter 209 Enforcement Hearings**");

WHEREAS, the Board wishes to adopt a Fine and Enforcement Policy that establishes a schedule of fines for violations of the Declaration and other dedicatory instruments of the Association and provides information regarding Chapter 209 Hearings in compliance with Section 209.0061 of the Texas Property Code;

WHEREAS, the Board approved and adopted the attached Fine and Enforcement Policy (hereinafter referred to as the "Policy") for the purpose of establishing a schedule of fines and providing information regarding Chapter 209 Hearings at a meeting of the Board conducted on April 27th, 2024.

BE IT RESOLVED, that the Board hereby approves and adopts the Fine and Enforcement Policy attached hereto as Exhibit "A" and for it to be recorded in the Official Public Records of Hood County, Texas.

Executed this the 28th day of April, 2024.

THE ORCHARDS PROPERTY OWNERS ASSOCIATION, INC.

By: Lisa Lackey

Name: Lisa Lackey

Title: Secretary

STATE OF TEXAS §
COUNTY OF Hood §

This instrument was acknowledged before me on this the 28th day of April, 2024, by Lisa Lackey, Secretary of and for The Orchards Property Owners Association, Inc., for the purposes therein expressed.

STEFANIE MATHEWS
Notary Public
State of Texas
ID # 1657424
Comm. Expires 07/20/2024

Stefanie Mathews

Notary Public, State of Texas

Exhibit "A"

THE ORCHARDS PROPERTY OWNERS ASSOCIATION, INC.

FINE AND ENFORCEMENT POLICY

1. Background. Orchards on the Brazos is a subdivision development (the "**Subdivision**") created by and subject to that certain Declaration of Covenants, Conditions and Restrictions for Orchards on the Brazos, recorded at Document No. 2013-0008080 in the Official Public Records of Hood County, Texas (the "**Declaration**"). The operation of the Subdivision and enforcement of the Declaration is vested The Orchards Property Owners Association, Inc. (the "**Association**"), acting through its Board of Directors (the "**Board**").

2. Fining Authority. Pursuant to Article II, Section 2.05 of the Declaration, the Board may impose fines for any violation of the Declaration or any other dedicatory instrument of the Association (collectively, the "**Governing Documents**"). Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Declaration.

3. Purpose. The Board hereby adopts this Fine and Enforcement Policy (the "Policy") in order to establish procedures for the levy of fines and a schedule of fines in compliance with the requirements of Section 209.0061 of the Texas Property Code. To the extent any provision within this Policy is in conflict with any applicable law, such provision shall be modified or construed to comply with the applicable law. Furthermore, this policy is intended to supplement the Association's Governing Documents and it is not intended to replace or override any previously adopted Governing Documents, including any fine and enforcement policies or schedules of fines previously adopted by the Board. Unless otherwise stated herein, the schedule of fines adopted hereby shall apply only to specific categories of violations described herein and to violations of the Governing Documents for which the Board has not otherwise established a schedule of fines. To the extent that the Board has previously adopted a dedicatory instrument establishing a schedule of fines for specific categories of violations, such schedule of fines shall remain in effect and enforceable. To the extent a particular violation may be subject to two or more schedules of fines that establish differing fine amounts, the violation shall be fined pursuant to the schedule of fines with the highest fine amount.

4. Policy. The Association uses fines to discourage violations of the Governing 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 Governing Documents. The Association's use of fines shall not interfere with its exercise of other rights and remedies for the same violation.

5. Owner's Liability. An Owner is liable for fines levied by the Association for violations of the Governing Documents by the Owner, any occupants of the Owner's Lot ("**Occupants**"), and the relatives, guests, employees, and agents of the Owner and Occupants ("**Related Parties**"). Regardless of who commits the violation, the Association will direct its communications regarding the violation to the Owner, although the Association may also send copies of its notices to an offending Occupant and/or Related Party.

6. Notice of Fine. Except as provided herein, before levying a fine, the Association shall give the Owner a written notice of fine (the "**Notice of Fine**") at the Owner's last known address as shown in the Association records in compliance with the most current version of Section 209.006 of the Texas Property and any applicable provisions of the Association's Governing Documents. As of the effective date of this Policy, Section 209.006 requires an initial Notice of Fine to:

   A. describe the violation that is the basis for the fine;

   B. inform the Owner that the Owner (i) is entitled to a reasonable period to cure the violation and avoid the fine if the violation is of a curable nature and does not pose a threat to public health or safety; (ii) may request a hearing under Section 209.007 of the Texas Property Code (a "**Chapter 209 Enforcement Hearing**") on or before the 30th day after the date the Notice of Fine was mailed to the Owner; and (iii) may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the Owner is serving on active military duty;

   C. if the violation is of a curable nature and does not pose a threat to public health or safety, provide the Owner a reasonable period to cure the violation and specify the date by which the Owner must cure the violation in order to avoid the assessment of a fine; and

   D. be sent by verified mail to the Owner at the Owner's last known address as shown on the Association's records.

7. Violations that are Uncurable or a Threat to Public Health or Safety. If the violation is of an uncurable nature or poses a threat to public health or safety, then the Notice of Fine shall state those items set out in Section 6, Subsections (A), (B)(ii) and (iii), and (D) above and shall omit those items set out in Section 6, Subsections (B)(i) and (C) above. For purposes of this Policy, a violation is considered uncurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action and 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.

8. Continuous and Repeat Violations. If the Owner has been given an initial Notice of Fine and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months and the Owner either has failed to cure the violation or has committed the same or a similar violation, then the Owner shall not be entitled to an additional Notice of Fine or a Chapter 209 Enforcement Hearing, and the Association shall have the right to exercise any enforcement remedy afforded to it under the Governing Documents, including but not limited to the right to levy a fine pursuant to the *Schedule of Fines*. If an Owner fails and refuses to cure a violation after having been provided a Notice of Fine as set forth herein and assessed fines in the amounts set forth in the *Schedule of Fines*, then the Board, in its sole discretion, may determine that such a circumstance is a continuous violation that warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board.

9. Due Date. Fines are due immediately if the violation is uncurable or poses a threat to public health or safety or the Owner has been given an initial Notice of Fine and a reasonable

opportunity to cure the same or similar violation within the preceding six (6) months and the Owner either has failed to cure the violation or has committed the same or a similar violation. For all other violations, the fine is due immediately after the later of: (A) if the Owner does not timely request a Chapter 209 Enforcement Hearing and fails to timely cure the violation, the date that the cure period set out in the Notice of Fine expires; or (B) if a Chapter 209 Enforcement Hearing is timely requested by the Owner, the date the Board's final decision on the matter is communicated to Owner in writing, assuming the Owner did not timely cure the violation and the fine is confirmed by the Board following the Chapter 209 Enforcement Hearing.

10. Chapter 209 Enforcement Hearings. Chapter 209 Enforcement Hearing shall be requested and conducted in accordance with the following provisions:

A. Requesting a Chapter 209 Enforcement Hearing. To be effective, a request for a Chapter 209 Enforcement Hearing must be in writing and received by the Association within thirty (30) days from the date written notice of a fine is sent to an Owner by verified mail in compliance with Section 209.006 of the Texas Property Code. The written request for a Chapter 209 Enforcement Hearing must be sent to the Association by certified mail at the mailing address of the Association or authorized representative as reflected on the most current management certificate filed by the Association pursuant to Section 209.004 of the Texas Property Code. Failure to timely request a Chapter 209 Enforcement Hearing shall waive any right to such a hearing.

B. Scheduling and Notice of the Chapter 209 Enforcement Hearing. The Board shall conduct a Chapter 209 Enforcement Hearing within thirty (30) days from the date the Board receives the Owner's timely written request for a hearing. The Board shall also provide the Owner notice of the date, time, and location of the hearing at least ten (10) days prior to the date of said hearing. The notice of the Chapter 209 Enforcement Hearing may be mailed, hand-delivered, or emailed to the requesting Owner and shall be considered delivered on the day it is hand-delivered, mailed to the requesting Owner at his or her last known mailing address with proper postage, or emailed to the requesting Owner at an email address provided to the Association by such Owner. The Board or the requesting Owner may request a postponement of the scheduled hearing date one (1) time each, and if requested, a postponement shall be granted for a period of no more than ten (10) days from the date of the previously scheduled hearing date unless otherwise agreed to by the Board and the Owner. Additional postponements may be granted by agreement of the parties. The Board shall provide the requesting Owner with the date, time, and location of the rescheduled hearing date at least twenty-four (24) hours in advance of the rescheduled hearing date. Notice of a rescheduled hearing date may be given to an Owner by any reasonable manner designed to provide adequate notice of the rescheduled hearing.

C. Location of the Chapter 209 Enforcement Hearing. A Chapter 209 Enforcement Hearing may be conducted in conjunction with a meeting of the Board or at a non-public work session of the Board. If the Chapter 209 Enforcement Hearing is conducted at a meeting of the Board, it shall be conducted during an executive session of the meeting unless the requesting Owner and the Board agree to conduct it during an open session of the meeting. In addition, a Chapter 209 Enforcement

Hearing may be held at a physical location, or at the election of the Board, by video conference technology, provided the Owner is afforded the reasonable ability to present information relevant to the subject matter of the Chapter 209 Enforcement Hearing. Upon the agreement of the Board and the Owner, a Chapter 209 Enforcement Hearing may be conducted at the property that is the subject of the hearing.

D. Pre-Hearing Disclosure of Evidence Packet. No later than ten (10) days before a Chapter 209 Enforcement Hearing is held by the Board, the Board shall provide to the requesting Owner a packet containing all documents, photographs, and communications relating to the enforcement matter that the Board intends to introduce at the Chapter 209 Enforcement Hearing (the "**Evidentiary Packet**"). The Evidentiary Packet may be mailed, hand-delivered or emailed to the requesting Owner and shall be considered delivered on the day it is hand-delivered, mailed to the requesting Owner at his or her last known mailing address with proper postage or emailed to the requesting Owner at an email address provided to the Association by such Owner. A letter from the Board to the requesting Owner stating that all documents, photographs, and communications relating to the matter that the Board intends to introduce at the Chapter 209 Enforcement Hearing have been produced or that there are no documents, photographs, or communications relating to the matter that the Board intends to introduce at the Chapter 209 Enforcement Hearing shall satisfy the Board's obligation concerning the pre-hearing disclosure of the Evidence Packet. If the Board fails to timely provide the Evidentiary Packet to the requesting Owner, the Owner shall be entitled to an automatic fifteen (15) day postponement of the Chapter 209 Enforcement Hearing, unless the Owner agrees to waive the Board's obligation concerning the pre-hearing disclosure of the Evidence Packet.

E. Attendance at the Chapter 209 Enforcement Hearing. The Board and the requesting Owner may be represented by legal counsel at a Chapter 209 Enforcement Hearing. In addition, both parties may have other relevant persons attend the Chapter 209 Enforcement Hearing, including the Association's managing agents, members of the architectural committee, architects, contractors, consultants and any other person that either party believes would be in a position to provide information relevant to the subject matter of the hearing.

F. Conduction of the Chapter 209 Enforcement Hearing. The purpose of the Chapter 209 Enforcement Hearing is to discuss and verify facts and resolve the matters at issue. At the Chapter 209 Enforcement Hearing, a member of the Board (or a designated representative of the Association) shall first present the Association's case against the Owner. The Owner (or the Owner's designated representative) may then present the Owner's information and issues relevant to the appeal or dispute. An audio recording of the Chapter 209 Enforcement Hearing may be made by the Board or the Owner.

G. Ruling by the Board. The Board's ruling shall be in writing and mailed by certified mail, hand-delivered, or emailed to the requesting Owner within ten (10) business days from the date of the Chapter 209 Enforcement Hearing. The Board may, but is not required to, state the basis for its determinations in the written ruling. There shall be no appeal or reconsideration of the ruling by the Board.

11. Schedule of Fines. The Board has adopted the following general schedule of fines. The Board reserves the right to increase or decrease a scheduled fine amount on a case-by-case basis if the factual circumstances of a violation would justified such a modification, as determined by the Board in its sole and absolute discretion, provided the Board acts in good faith and the fine amount is reasonable in light of the nature, frequency, and effect of the violation. The Board also reserves the right to pursue any additional remedies available to the Association under Texas law or the Governing Documents in addition to levying fines.

A. Fines For All Violations:

Violation:	Fine Amount:
New Violation	$100.00 (if a curable violation, fine may be avoided if Owner cures the violation by the time specified in the notice of fine)
First Repeat Violation (in a six month period)	$150.00
Second Repeat Violation (in a six month period)	$150.00
Third Repeat Violation (in a six month period)	$200.00
Subsequent Repeat Violations (in a six month period)	$250.00

12. Amendment of Policy. 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 county's official public records.