

**MORNINGSIDE PLACE, SECTION 1, HOMEOWNERS ASSOCIATION, INC.**  
**AMENDED FINING POLICY**

At a regular meeting of the Board of Directors (“Board”) for Morningside Place, Section 1, Homeowners Association, Inc., said meeting being properly called and a quorum being present, came to be heard the matter of establishing certain rules and regulations relating to an amended fining policy. The said policy is effective immediately, substitute and/or replace any and all existing fining policies, and apply to the entirety of the Morningside Place subdivision.

As permitted under the Declaration of Covenants, Conditions and Restrictions for Morningside Place, Section 1, Homeowners Association, Inc. (“Declaration”), the Association has the right to set rules and regulations and impose fines, if necessary, to achieve compliance. Fines may be levied in accordance with these rules and regulations and may continue until the violation is corrected. The Association retains the right to bring injunctive lawsuits or to exercise contractual self-help, in the sole determination of the Board, to affect Owner’s compliance with the Declaration.

**Procedures for Deed Restriction Violation Notice and Implementation of Fines**

An Owner of property within the Morningside Place subdivision whose lot or residence is in violation of the dedicatory instruments governing the Morningside Place, Section 1, Homeowners Association, Inc., including all statutory laws supplementing same, shall be provided notice of the violation as follows:

| Step | Action  |
|------|---|
| 1    | An initial notice of non-compliance shall be mailed via regular mail to the Owner requesting that the violation be corrected within 30 days. No fines shall attach to this notice. Initial notices will NOT be sent for repeated violations within any six (6) month period.  |
| 2    | If the violation has not been corrected after the initial 30-day period, a second notice requesting compliance within 30 days will be sent via regular mail and certified mail, return receipt requested, to the Owner. This notice will (a) provide a description of the violation or property damage that is the basis for the proposed fine, as well as the fine amount that will be imposed after the date of the hearing (if one is requested) or the date whereby the hearing is forfeited, (b) advise of the Owner’s right to request a hearing before the Board of Directors on or before the 30 <sup>th</sup> day after the date the notice was mailed to the Owner, and (c) advise that Owner is entitled to a reasonable period to cure the violation (if curable) and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure the same violation within the preceding six (6) months. <b><i>the scheduled fine will be assessed</i></b> and due following the date of the hearing or the date that the hearing is forfeited.<br><br><u><i>For any repeat violations within a six (6) month period, the scheduled fine will automatically be assessed, and the fine cannot be avoided by curing the violation.</i></u> |

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|-----------------|---|
| <p><b>3</b></p> | <p>If the violation continues without resolution after the second notice:</p> <ul style="list-style-type: none"> <li>(a) The scheduled fine will be assessed again.</li> <li>(b) The Board may remedy the violation and/or take legal action, including referral to an attorney, and all associated enforcement costs shall be billed to the Owner.</li> <li>(c) The Board may levy an additional fine every 30 days until the violation is corrected.</li> <li>(d) Fines may be levied on a daily basis following the expiration of the hearing process.</li> </ul>  |
|                 | <p><b>Note:</b> If the violation has not been corrected following the notice/fine imposition period, the Board will determine whether legal action is to be taken, including, but not limited to utilizing attorney demand letters, seeking a permanent injunction against the owner of the lot not in compliance, or performing, in accordance with the rights afforded to the Association under the Declaration, all activities necessary to repair, maintain or restore a lot in violation and charging the Owner of the lot all costs associated with the performance of such work. The Association intends to utilize the above-outlined process in most deed restriction violation matters. However, for those situations of urgency which pose a likelihood of immediate harm, economic or otherwise, the Association may choose to abate, shorten, or modify the above procedure for effecting compliance of a violation.</p> |

### Hearing Process

The following process shall be used for the Morningside Place, Section 1, Homeowners Association, Inc. in connection with any hearing before the Board requested by an Owner relating to a deed restriction violation. Any request for a hearing that does not comply with the process detailed below will be treated as if no request for a hearing had been made by the Owner receiving the notice of violation.

| <b>Step</b> | <b>Action</b>   |
|-------------|---|
| <b>1</b>    | <p><b>Request a Hearing.</b> To request a hearing, an Owner must make a written request which specifies the matter for which the hearing is requested. The request must include a description of the issues in dispute, the basis for dispute and the owner's desired outcome from the hearing. Such request must be mailed, hand-delivered or electronically delivered to the Association's address as shown on the most recently filed management certificate. Because the hearing steps begin upon receipt of such request by the Association, the Owner should verify receipt by Association if no response is received within a reasonable timeframe.</p> <p>A written* request for a hearing shall be submitted to the Board at the following address:</p> <p style="text-align: center;"><b>MORNINGSIDE PLACE, SECTION 1, HOMEOWNERS ASSOCIATION, INC.<br/>c/o APC Property Management<br/>7676 Hillmont St., Suite 200<br/>Houston, Texas 77040</b></p> <p>*typewritten, handwritten, and emailed requests will meet this requirement</p> <p>The written hearing request must (a) be postmarked within thirty (30) days of the date of initial violation notice, and (b) include pertinent backup information, if any, that will support the existence of the extenuating circumstances or help to explain why the violation does not exist or should otherwise be excused.</p> |
| <b>2</b>    | <p><b>Hearing Date.</b> Hearings must be held not later than the 30th day after the date the Association receives the Owner's request for a hearing. However, the Association or the Owner may request a postponement which shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of both parties.</p> <p>Not later than the 10th day before the date of the hearing, the Association must notify the Owner in writing of the date, time, and place of the hearing. In addition, not later than the 10th day before the date of the hearing, the Association must provide the Owner a packet containing all documents, photographs and communications relating to the matter that the Association intends to introduce at the hearing. Such notice and packet may be provided by mail, hand delivery or electronic delivery.</p>   |

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|                 | <p>As provided under Code section 209.051, all hearings will be held with the Board at a duly called meeting where notice is provided to the members. All hearings will be held in closed executive session.</p>   |
| <p><b>3</b></p> | <p><b>Attendance at Hearing.</b> On behalf of the Association, the Board, their designated representative, and if related to an ARA disapproval and if invited by the Board, a representative of the ARA may attend the hearing. On behalf of the Owner, the Owner and/or the Owner’s designated representative may attend the hearing.</p> <p>If the Owner desires to be represented by their attorney at the hearing, the Owner must notify the Association in writing at least ten (10) days in advance so the Association’s attorney may also be present if the Board chooses. Each party must pay their own legal fees relating to their respective attorney’s preparation, attendance and immediate follow-up to the hearing.</p> <p>If the Owner is not able to attend the hearing but will send a representative, the Owner must inform the Association of the name of the person who has authority to be their designated representative at the hearing prior to the start of the Board meeting in which the hearing will be held. If such advance notice is not possible then the designated representative may provide written evidence at the hearing that they have authority to represent the Owner.</p> <p>If the Owner or their designated representative does not attend the hearing as scheduled, then the Association will have satisfied its obligation under the Code to offer a hearing to the Owner and may render a decision based on a majority vote of the quorum if Board Members present..</p> |
| <p><b>4</b></p> | <p><b>During the Hearing.</b> The Association may set a reasonable duration for the hearing. During a hearing, a member of the Board or the Association’s designated representative shall first present the Association’s case against the Owner. An Owner or the Owner’s designated representative is entitled to present the Owner’s information and issues relevant to the appeal or dispute.</p> <p>The Board may ask clarifying questions of the Owner or their designated representative to better understand the Owner’s position or request.</p> <p>Either party may make an audio recording of the hearing by announcing that an audio recording is being made. The recording device should be placed in a position such that all voices can be heard and recorded.</p> <p>At the hearing, the Board shall review all information and listen to an Owner’s presentation. If the Board requires additional information from the Owner or needs to deliberate further, then the Board may schedule a continuance hearing to occur within thirty (30) days, or just submit its decision to the Owner in writing by mail sent to the Owner’s last known address. All decisions of the Board are final and may not be further appealed.</p>  |

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| <b>5</b> | <p><b>After the Hearing.</b> After the hearing is concluded, the Owner and their designated representative will leave the hearing so the Board may continue their executive session to discuss and consider the information presented. If needed, the Board may take any action authorized under the Association’s dedicatory instruments or the Code. Any such decisions shall be made after returning to the open portion of the Board meeting and exercising appropriate discretion with regard to confidential information.</p> <p>The Association will provide the Owner with a written notice of the Board’s decision, if any, regarding the matter of the hearing within ten (10) days following the date of the hearing.</p> |
|----------|--|

### **Instruction on “Reasonable Time to Cure”**

The following section is to be used only as a guideline for curing violations of the deed restrictions for Morningside Place, Section 1, Homeowners Association, Inc. (“Association”). At all times the Board of Directors (“Board”) for the Association may decrease, increase or otherwise amend the time allowed to cure a violation at its sole discretion.

Owners should first consult any notices they receive regarding the violation(s) for guidance on the amount of time allowed to cure any particular violation. However, if the notice of violation contains no such instruction regarding time to cure the violation, then the Owner should consult this Policy. Owners are encouraged to contact the Association by and through its managing agent for any questions relating to the enforcement of this Policy of the guidelines set forth herein.

The following list of violations are for illustrative purposes only, and the time to cure may be amended as determined by the Board given the nature, severity, frequency, and location of the violation, as well as any mitigating circumstances that the Owner may be able to attest to.

*\*Please note that there is NO CURE PERIOD for any violation that is considered a threat to public health or safety, meaning that the violation could materially affect the physical health or safety of an ordinary resident.*

**[Chart appears on next page]**

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**Chart: Reasonable Time to Cure Guidelines**

| Violation Type   | Time to Cure                   | Examples*   |
|--|--------------------------------|---|
| Transient Violations (those violations deemed temporary or fluid in nature, easily remedied by removal of the offending structure/item, etc.)                                    | 5 days to cure                 | Inoperable/improperly-stored vehicles incl. boats, trailers, etc.<br>Oversized/commercial vehicles<br>Parking on grass<br>Vehicle covers <sup>1</sup><br>Basketball goals<br>Heavy trash violation <sup>2</sup><br>Trash cans left in public view <sup>3</sup><br>Nuisance conduct (loud, disruptive behavior, disturbing the peace)<br>Pet waste/leash infractions<br>Livestock/poultry on lot<br>Items stored on the lot<br>Signs in yard |
| Intermediate Violations (those violations that will require additional time and/or expense than transient violations, but not extensive repairs to the lot or dwelling)          | 15 days                        | Fence repair/replacement<br>Landscaping/lawn maintenance (lawn, shrubs, flower beds, etc.)<br>Holiday decorations displayed more than 30 days after a holiday   |
| Structural Violations (those violations that will take greater time and/or expense to correct, maybe subject to weather conditions and other factors not in the Owner's control) | 30-90 days (or longer) to cure | Exterior maintenance of home including:<br>Mildew removal<br>Painting<br>Wood/siding/fascia repair<br>Gutter repair/replacement<br>Garage door repair<br>Window replacement<br>Roof repair<br>Concrete repair/replacement<br>Modification/addition<br>Operating a business in the home (non-incidentual use)  |

\*The examples listed above are not exhaustive and the Board reserves the right to modify this guideline to include other violations, modify the time to cure, and/or remove violations as practical.

<sup>1</sup> Vehicle covers are allowed if the weather forecast on the day before or the day of shows (i) freezing rain, sleet, snow; (ii) temperatures 32 deg. and below or 100 deg. and above; (iii) hail; (iv) active hurricane.

<sup>2</sup> Heavy trash cannot be visible from public view more than 2 days prior to the scheduled pick-up date.

<sup>3</sup> Cans cannot be put out for pick-up any earlier than 6pm the day before the scheduled pick-up and must be stored out of public view by end of day following pick-up.

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### **Instruction on Uncurable Violations**

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. For purposes of this section, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy.

The following are examples of acts considered “uncurable” for purposes of this section:

- (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.

*\* 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*

The following are examples of acts considered “curable” for purposes of this section:

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

**[Chart appears on next page]**



**Uncurable Violations Enforcement and Implementation of Fines**

| <b>Step</b> | <b>Action</b>   |
|-------------|---|
| <b>1</b>    | Initial Letter. There will be no initial letter for an uncurable violation.   |
| <b>2</b>    | Notice of Fine. Letter will notify the Owner that the violation exists, that a fine has been levied in the scheduled amount, and that the Owner has the right to meet with the Board for the purpose of discussing the violation. This notice will be sent by certified mail, return receipt requested, in accordance with the requirements of the Texas Residential Property Owners Protection Act. There is no cure period for uncurable violations, and the Owner must request a hearing on this matter before the Board within 30 days after receipt of this letter or forfeit the right to do so.  |
| <b>3</b>    | <p>If the violation continues without resolution after the initial notice:</p> <ul style="list-style-type: none"> <li>(a) The scheduled fine will be assessed again.</li> <li>(b) The Board may remedy the violation and/or take legal action, including referral to an attorney, and all associated enforcement costs shall be billed to the Owner.</li> <li>(c) The Board may levy an additional fine every 30 days until the violation is corrected.</li> <li>(d) Fines may be levied on a daily basis following the expiration of the hearing process.</li> </ul>   |
|             | <p><b>Note:</b> If the violation has not been corrected following the notice/fine imposition period, the Board will determine whether legal action is to be taken, including, but not limited to utilizing attorney demand letters, seeking a permanent injunction against the Owner of the lot not in compliance, or performing, in accordance with the rights afforded to the Association under the Declaration, all activities necessary to repair, maintain or restore a lot in violation and charging the Owner of the lot all costs associated with the performance of such work. The Association intends to utilize the above-outlined process in most deed restriction violation matters. However, for those situations of urgency which pose a likelihood of immediate harm, economic or otherwise, the Association may choose to abate, shorten, or modify the above procedure for effecting compliance of a violation.</p> |

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**Self-Help and Forced Maintenance**

| <b>Step</b> | <b>Action</b>   |
|-------------|---|
| <b>1</b>    | Notice of Intent to use Self-Help. Letter will notify the Owner that the violation exists, and the Owner has ten (10) days to correct the violation. This notice will be sent by certified mail, return receipt requested, in accordance with the requirements of the Texas Residential Property Owners Protection Act, and will notify the Owner that failure to correct the violation within the 10-day cure period will allow the Association to take immediate self-help action to restore the lot to a condition that complies with the Declaration.   |
| <b>2</b>    | If the violation exists following the 10-day cure period, and without further notice to the Owner, the Association may hire a contractor and perform the required self-help to restore the lot to a condition that complies with the Declaration. All costs incurred to perform the self-help will be automatically added to the Owner's account.<br><br><i><u>For any repeat violations within a six (6) month period, a statement of self-help costs will be sent instead of a notice letter and all costs incurred to perform the actual self-help will be automatically added to the Owner's account.</u></i> |

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## **General Provisions**

If an Owner contacts the Association (whether directly or through its managing agent) with the intent to correct a violation and asks for an extension, the Board may grant such extension if it deems the extension reasonable. The decision to grant an extension may be based on violation severity, prior violation history, or other factors that may influence the Board's decision. If the Owner does not cure the violation after the extension period, then enforcement will resume at the next step in the process prior to the Owner's request for extension.

### **Fine Amounts are Subject to Change**

The Board reserves the right, in its sole discretion, to levy lesser or greater fines, provide additional warnings or fewer warnings before fines are made, and provide more or less time for compliance, depending on the severity of the violation at issue and the extent of its negative impact on the Morningside Place subdivision.

### **Referral to Attorney**

It is the sole discretion of the Board to decide when and if a violation is referred to the attorney for further enforcement. The decision to escalate an account to the attorney may be based on violation severity, prior violation history, or other factors that influence the Board's decision. Once a violation is referred to the attorney's office for enforcement, the attorney will send the Owner a letter of representation and a demand for compliance pursuant to the Association's governing documents. If the Owner fails to respond, then the attorney will pursue all available legal and equitable remedies to cure the violation including, but not limited to, filing a notice of noncompliance with the County real property records, filing an injunctive lawsuit with a court of competent jurisdiction, and exercising all post-judgment rights to force compliance. All attorney's fees, collection costs and expenses of enforcement shall be charged to the Owner's account in accordance with the dedicatory instruments and state law.

### **Self-Help and Forced Maintenance**

In the event of the Owner's failure to comply with the above requirements after ten (10) days written notice thereof, the Association or their designated agent may, in addition to any and all legal and equitable remedies and without liability to the Owner or any occupants of the lot in trespass or otherwise, enter upon said lot to abate or remove, using such force as may be reasonably necessary, any installation, fixture, or condition which violates the Declaration or any amendments thereto. Unless an emergency situation exists or in the case of a repeat violation within six (6) months, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise this self-help power. All costs of self-help, including the costs of hiring a contractor, third-party services, and/or reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided by the Association's prevailing collection policy for of assessments.

### **Amendments to the Policy**

This policy may be amended and/or adjusted by the Board from time to time without notice. Owners are advised that they should contact the management company to request the cost recent version of this Policy if they have a question and/or need assistance in making payment arrangements.

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### Schedule of Fines

**The payment of a fine does not grant a variance for a violation, nor does it enable an Owner to allow the violation to remain unabated. All violations must be corrected in a manner satisfactory to the Association. If there is a subsequent violation of the same rule, the fine amount may double with each subsequent violation.**

|  |                    |
|--|--------------------|
| ❖ ACC request not submitted prior to erecting structures and making modifications.....   | \$50               |
| ❖ Basketball goals left overnight or placed in street.....   | \$50               |
| ❖ Commercial vehicles, 18-wheeler trucks and truck cabs in neighborhood (except for discharge or pickup of community services).....            | \$250              |
| ❖ Disabled or inoperable vehicle in driveway or street for more than 24 hours.....   | \$50               |
| ❖ Property used for storage (boats, vehicles, trailers, etc.).....   | \$50               |
| ❖ Vandalism of common areas or personal property.....  | \$100              |
| ❖ Animals not on leash when walked or let loose outside the confines of Owner's lot.....   | \$100              |
| ❖ Swimming in community pool before or after posted pool hours.....  | \$100              |
| ❖ Swimming in community pool before Memorial Day or after Labor Day.....   | \$100              |
| ❖ Disorderly conduct in common areas or violation of posted rules for the pool or park area.....   | \$50               |
| ❖ Holiday decorations displayed 30 days after a particular holiday.....  | \$50               |
| ❖ Trash containers left in public view, except for designated pick-up days.....  | \$50               |
| ❖ Landscaping violations (failure to weed, trim shrubbery, mow grass, maintain grass/yard, etc.).....  | \$50               |
| ❖ Home repairs needed (rotting wood, sagging gutters, damaged garage door, refinishing front door, replacing broken light fixtures, etc.)..... | \$50               |
| ❖ Exterior painting needed on the home.....  | \$50               |
| ❖ Mildew on the exterior of the home.....  | \$50               |
| ❖ Littering in common areas.....   | \$50               |
| ❖ Storing of barbeque pits or grills in public view.....   | \$50               |
| ❖ Other violations.....  | \$Board discretion |

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MORNINGSIDE PLACE, SECTION 1, HOMEOWNERS ASSOCIATION, INC.

CERTIFICATE TO AUTHENTICATE  
AMENDED FINING POLICY

I, the undersigned, do hereby certify:

1. I am the duly elected and acting President of Morningside Place, Section 1, Homeowners Association, Inc., a Texas non-profit corporation (the "Association"), and.
2. The "Amended Fining Policy" was approved by the Board of Directors of the Association as indicated at a duly-noticed and duly-held meeting of the Board as required by the Declaration of Covenants, Conditions and Restrictions for Morningside Place (the "Declaration"), the Bylaws, and in accordance with all applicable State laws.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 3<sup>rd</sup> day of August, 2022

Morningside Place, Section 1,  
Homeowners Association, Inc.  
a Texas non-profit corporation

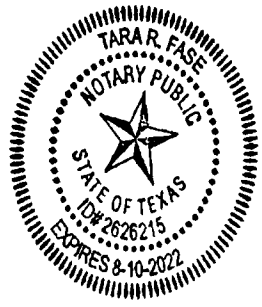
Victoria L. Lastee  
Victoria Lastee, President

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on the 3<sup>rd</sup> day of August, 2022 by Victoria Lastee, President of the Morningside Place, Section 1, Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

WMA

Notary Public, State of Texas



After recording, please return to:

NORTH LAW, P.C.  
1010 Lamar, Suite 1500  
Houston, Texas 77002

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# Pages 14  
08/04/2022 11:31 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
TENESHIA HUDSPETH  
COUNTY CLERK  
Fees \$66.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

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.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Teneshia Hudspeth*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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