

**HOMEOWNERS ASSOCIATION OF  
WEST PALM VILLAS ON WALDEN ROAD, INC.  
COLLECTION AND PAYMENT PLAN POLICY**

STATE OF TEXAS                   §  
  §  
COUNTY OF MONTGOMERY       §

WHEREAS, Homeowners Association of West Palm Villas on Walden Road, Inc. (the "Association"), a Texas nonprofit corporation, is the governing entity West Palm Villas on Walden Road, and West Palm Villas on Walden Road Section 2, additions in Montgomery County, Texas, according to the map or plat thereof, recorded in the Map Records of Montgomery County, Texas, under Cabinet N, Sheet 23, and Cabinet Q, Sheet 32, respectively, along with any amendments, supplements and replats thereto, (the "Subdivision"); and

WHEREAS the Subdivision is subject to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for West Palm Villas on Walden Road, recorded in the Real Property Records of Montgomery County, Texas, under Clerk's File No. 2003-072567, along with any amendments and supplements hereto (hereinafter the "Declaration"); and

WHEREAS Article VI of the Declaration empowers the Association to levy and collect assessments and any interest, fees, costs, and charges (including attorneys' fees and costs) that result from a Lot becoming delinquent in paying assessments; and,

WHEREAS Section 204.010(a)(12) of the Texas Property Code authorizes the Association, by and through its Board of Directors, to charge costs to an Owner's assessment account and collect the costs in any manner provided in the Declaration for the collection of assessments; and,

WHEREAS Section 204.010(a)(13) of the Texas Property Code authorizes the Association, by through its Board of Directors, to adopt rules regulating the collection of delinquent assessments and the application of payments; and,

WHEREAS the Association wishes to enact a payment plan policy and a policy managing collections on delinquent accounts; and,

WHEREAS Section 209.0062 of the Texas Property Code requires property owners' associations composed of more than fourteen (14) lots to adopt reasonable guidelines to establish an alternative payment schedule by which their members may make partial payments to their property owners' association for amounts owed to the association without accruing additional monetary penalties; and,

WHEREAS this Dedicatory Instrument represents restrictive covenants as those terms are defined by Texas Property Code §202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these restrictive covenants; and,

WHEREAS these policies fully repeal and replace any earlier-recorded collections and/or payment plan policies;

NOW THEREFORE, in accordance with the foregoing and as evidenced by the Certification hereto, the Association hereby adopts and imposes on the Subdivision the following:

### I. COLLECTIONS POLICY

1. At least 60 days prior to the beginning of each calendar year the Association's Board of Directors shall prepare a budget covering the estimated Common Expenses of the Association during the coming year and fix the amount of the annual assessment to be levied against each Lot in the next calendar year.
2. No later than the first day in December of each year, the Association shall mail each Owner a notice and account statement. That notice and account statement shall together inform each Owner:
  - a. of the entire amount owed by said Owner, and a breakdown detailing the basis for that amount owed; and,
  - b. that full payment is due by January 31 of the subsequent year; and,
  - c. that the Owner must make payment in full or enter into an approved payment plan no later than January 31 of the subsequent year; and,
  - d. payment options, as may be set by the Association's Board of Directors, and instructions on how the Owner may elect to enter into a payment plan; and,
3. No earlier than the first (1<sup>st</sup>) day of April of each year, the Association shall send, by certified mail, a delinquency notice and account statement to each Owner who has not paid in full or entered into an approved payment plan by that date. That notice shall afford the Owner all rights, remedies, options, and notices, as required by the Texas Property Code and/or its successor statute, and shall satisfy all relevant Texas and federal statutes.
  - a. Said notice shall further inform the Owner:
    - i. that Owner is delinquent; and,
    - ii. that Owner's account has been charged a late fee; and,
    - iii. the entire amount owed by said Owner; and,
    - iv. that Owner has forty-five (45) days from the date of the letter to cure said delinquency or to enter into an approved payment plan; and,
    - v. that the Owner may be eligible for a payment plan; and,
    - vi. instructions as to how Owner may enter into a payment plan.
    - vii. that the Owner is subject to interest due to Owner's delinquency; and,
    - viii. that if the Owner does not cure their delinquency within forty-five (45) days from the date of the letter, the Association may elect to refer the Owner's delinquency to a debt collector, and that in that event, the Owner will be responsible for all attorneys' fees and costs.
  - b. The Association may charge any delinquent Owner's account for the reasonable costs the Association incurs in sending said Owner this delinquency notice by certified mail.

4. The Association may, but is not required, to send courtesy notices to delinquent homeowners prior to sending the certified letter referenced above.
5. Any Owner who has not paid in full or entered into an approved payment plan by January 31 of each year shall be considered delinquent. All delinquent assessments shall bear interest until paid in full, from the date the account becomes delinquent, at a rate not exceeding the highest rate permitted by law.
6. In the event an Owner remains delinquent after the expiration of forty-five (45) days from the date of the Association mailed said Owner certified notice as detailed above, the Association's Board of Directors may (at an open meeting for which proper notice was provided and at which a quorum is present):
  - a. vote to instruct its attorneys to file a Notice of Lien in the Real Property Records for Montgomery County, Texas, evidencing the Association's secured lien against the delinquent owner's lot; and/or,
  - b. vote to refer delinquent accounts to the Association's attorneys for collection.
    - i. In the event the Board of Directors votes to refer a delinquent account to the Association's attorneys for collection, the Association may charge said delinquent Owner's account for the reasonable costs the Association incurs in referring said Owner to the Association's attorneys for collection.
7. In the event a delinquent Owner is referred to the Association's attorneys for collection and fails to either make full payment or enter into a payment plan, then, no earlier than sixty (60) days from the date a delinquent Owner was referred to the Association's attorneys for collection, the Association's Board of Directors may (at a Board of Directors meeting for which proper notice was provided and at which a quorum is present) vote to instruct its attorneys to file an action against the delinquent Owner seeking a judgment for all amounts due to the Association and/or a judicial order foreclosing the Association's lien against the delinquent Owner's Lot.
8. All notices and letters provided for herein, as well as all notices and invoices for the payment of assessments, will be provided to each Owner at the address appearing for said Owner in the books and records of the Association, and it is the duty of each Owner to update the Association in the event of a change of address.
9. In the event any Owner's payment is returned due to insufficient funds, the Association shall charge said Owner a returned check service fee, in the amount of the cost the Association incurs in processing a returned check.

## **II. PAYMENT PLAN POLICY**

10. Pursuant to Section 209.0062 of the Texas Property Code, and except as described and detailed herein, Owners receiving a delinquency notice by certified mail are automatically eligible to enter into a payment plan for the purpose of curing their delinquent balance.
11. Eligible Owners wishing to exercise their right to a payment plan under Section 209.0062 of the Texas Property Code must request such a payment plan, *in writing*, within forty-five (45) days following their receipt of a certified delinquency notice.
12. Any Owner requesting a payment plan must include in Owner's written request the term of Owner's proposed payment plan.
  - a. The minimum term for such payment plan shall be three (3) months.
  - b. In no event shall the Association be required to consider, or enter into, any payment plan extending more than eighteen (18) months from the date of the first payment called for under the proposed payment plan.
  - c. All requests for a payment plan must include the date during each month upon which each payment shall be due.
13. Certain Owners are ineligible for automatic statutory payment plans:
  - a. Any Owner who fails to request a payment plan, in writing, within forty-five (45) days following their receipt of a certified delinquency notice, is ineligible to enter into a payment plan under Section 209.0062 of the Texas Property Code subsequent to the expiration of that forty-five (45) day period.
    - i. The Association's Board of Directors may consider, but is in no event obligated to accept, a payment plan submitted by an Owner subsequent to the expiration of this forty-five (45) day period.
  - b. Any Owner who failed to honor the terms of a previous payment plan is ineligible to enter into a new payment plan for two (2) years subsequent to Owner's breach of the terms of the previous payment plan.
  - c. Any Owner who has entered into a payment plan during the twelve (12) months preceding owner request for a payment plan is ineligible to enter into a payment plan.
14. Any Owner may submit a written request for a payment plan that does not conform to this Policy to the Association for consideration. In no event is the Association obligated to accept such a request, and the Association's Board of Directors shall approve or deny any such request in its sole discretion.
15. The Association may charge an Owner for the reasonable costs associated with administering the payment plan during the life of the payment plan. Balances included within a payment plan shall accumulate interest as otherwise specified herein.
16. In the event an Owner breaches a payment plan, the Owner will be considered to be in default of the plan and the plan shall be terminated.
  - a. An Owner may breach a payment plan by:
    - i. Failing to return a signed copy of the payment plan as instructed;

- ii. Failing to make any payment on the scheduled date (including, but not limited to, making payment with a check that is returned for insufficient funds); or,
  - iii. Failing to pay future assessments by the due date if the payment plan extends into the next assessment period.
- b. If an Owner defaults on any payment plan, then the payment plan is terminated and the Owner's entire delinquent balance shall be immediately due and owing. In such an event, the Association is under no obligation to provide the homeowner notice of the payment plan's termination prior to proceeding with any collection action.

17. Payment Application:

- a. Pursuant to Section 209.0063(a) of the Texas Property Code, except as outlined herein, a payment received from an Owner shall be applied to the Owner's debt in the following order of priority:
- i. any delinquent assessment;
  - ii. any current assessment;
  - iii. any reasonable attorney's fees or third party collection costs incurred by the Association solely with assessments or any other charge that could provide the basis for foreclosure;
  - iv. any other reasonable attorney's fees incurred by the association;
  - v. any reasonable fines assessed by the Association;
  - vi. any other reasonable amount owed to the Association.
- b. If an Owner is in default of a payment plan when a payment is received, then the Association is under no obligation to apply payments in the priority outlined herein. In such an event, the Association shall apply said payments at the discretion of the Association's Board of Directors, except that fines will not be given priority over any other amount owed.

**CERTIFICATION**

"I, the undersigned, being a Director of the Homeowners Association of West Palm Villas on Walden Road, Inc., hereby certify that the foregoing was adopted by at least a majority of the Homeowners Association of West Palm Villas on Walden Road, Inc.'s board of directors, at an open and properly noticed meeting of the board, at which a quorum of the board was present."

By: 

Print name: David B. Demski

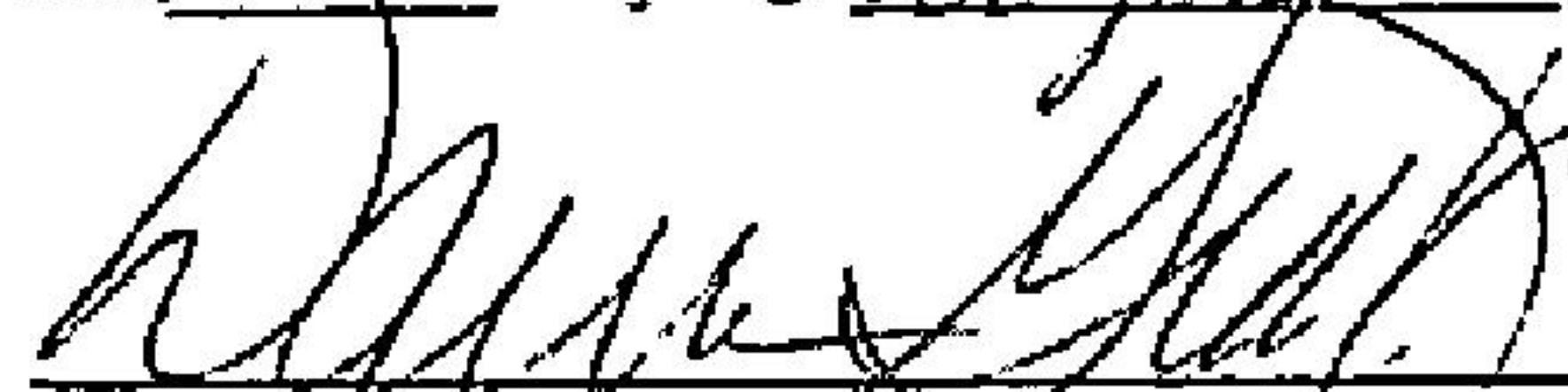
Title: President, West Palm Villas HOA

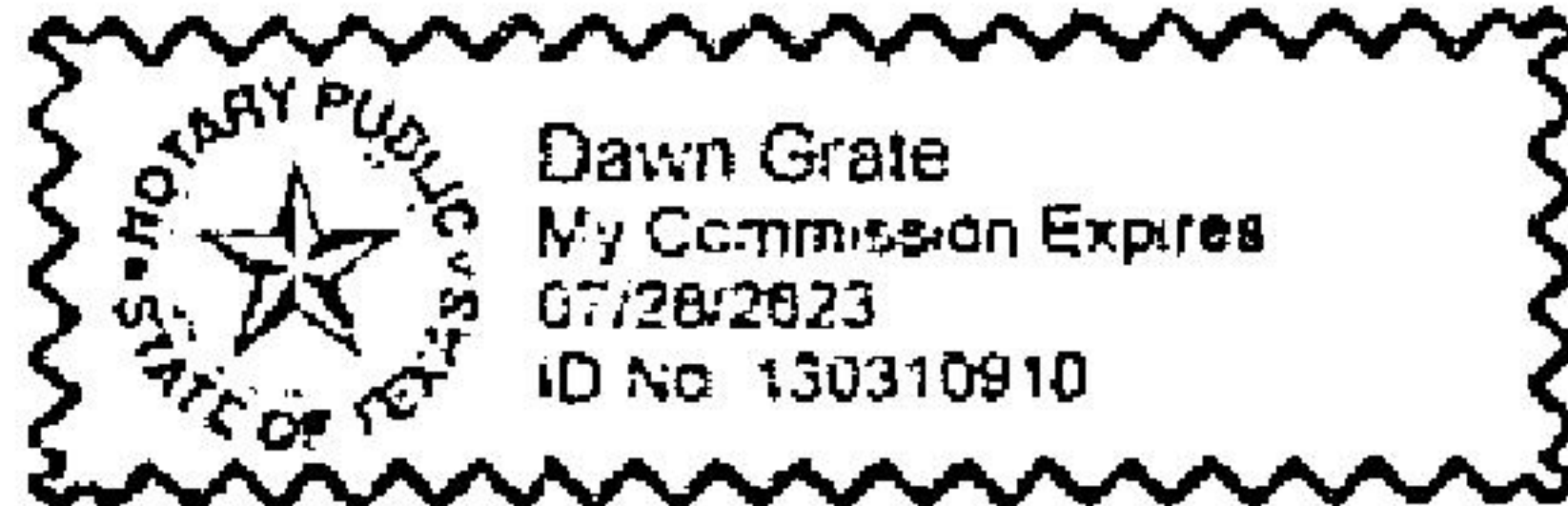
**ACKNOWLEDGEMENT**

STATE OF TEXAS                   §  
   §  
 COUNTY OF MONTGOMERY       §

BEFORE ME, the undersigned authority, on this day personally appeared the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that he is the person who signed the foregoing document in his representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 30<sup>th</sup> day of August, 2021.

  
Notary Public, State of Texas



**E-FILED FOR RECORD**

09/07/2021 11:23AM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was e-filed in the file number sequence on the date and time stamped herein by me and was duly e-RECORDED in the Official Public Records of Montgomery County, Texas.

**09/07/2021**



County Clerk  
Montgomery County, Texas