

# **Ternberry Homeowners Association**

## **Rules and Regulations**

Whereas, pursuant to Article IV, Section 1(c), Article X, Sections 5, 9, 12 and 14, Article XII, Section 1(d) and Article XIV, Section 3 of the *Declaration of Covenants, Conditions and Restrictions of Ternberry Homeowners Association* (Declaration) and Article V, Section 3(d) of the *Bylaws*, the Board of Directors of Ternberry Homeowners Association and/or its appointed Architectural and Environmental Review Committee (AERC) is authorized to establish rules and regulations regarding the use of the common areas and lots within the Homeowners Association and to enforce the Declaration, Bylaws and duly appointed rules and regulations.

Now therefore, in furtherance of the above-described authorities, the following Rules and Regulations are adopted regarding the use of the common areas and lots within the Ternberry Homeowners Association.

### **RULES REGARDING PETS**

- Owners are permitted to keep no more than two dogs, cats, caged birds or other small domestic animals as pets within their dwelling, provided that the same shall not disturb or annoy other owners and shall comply with all requirements of the Declaration, which further provides that the same shall not be kept or maintained for commercial purposes or breeding. Pets shall not be kept chained nor kenneled outside. No owners shall permit livestock, poultry, reptiles, or non domestic animals to be kept or maintained within their dwelling for any purposes. (See page 29 item b and page 30, item f in the Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association.)
- Owners shall ensure that all pets are licensed and inoculated as required by law.
- Owners shall keep all pets under their direct control at all times and shall not allow pets to run free or unleashed or to otherwise interfere with the rights, comforts and convenience of any other owners. Any inconvenience, damage, or unpleasantness caused by pets shall be the sole responsibility of the owner of the pet.
- Owners shall control the noises, odors, and actions of their pets in order to prevent such pets from being a nuisance or a source of annoyance to other owners. All pets shall be leashed or carried when on the common areas of the Association.
- Owners shall pick up all solid wastes after their pets.
- Nonresidents of Ternberry shall be prohibited, under the laws of trespass, from bringing any pet onto the walkways, common areas or private lots of Ternberry. Signs to this effect will be erected giving notice of this prohibition.

### **RULES REGARDING PLAYGROUNDS AND PATHS**

- Bikes and other wheeled vehicles are prohibited on the walking paths. Signs to this effect will be erected on the affected areas, giving notice of this prohibition.

- Playgrounds and equipment shall be for the use of Ternberry residents and guests. Others are prohibited, under the laws of trespass, from using them. Signs shall be erected giving notice of this prohibition.
- All children under the age of 12 shall be supervised at all times when on the playgrounds. Persons shall not be permitted to loiter or play in any common ground not specifically designated as a play or recreation area.
- Parents are encouraged to ensure that their children use only age appropriate equipment to prevent damage to same and possible injury to a child.
- **RULES REGARDING NOISE**
- No Owner or occupant shall make or permit to be made any disturbing noise on the common elements or in the homes by him/herself, family friends, or guests; nor permit anything to be done by any such persons as would interfere with the rights, comforts or convenience of other Owners.
- Noise on the common areas: No Owner or occupant shall play any music, radio, tape recorder, stereo system or the like if the same shall unreasonably disturb or annoy any other Owner or occupants. During the hours of 9 p.m. and 7 a.m., no Owner shall play or allow to be played any music, radio, tape recorder, stereo system or the like at a sound level that can be heard outside of the home.
- Owners and occupants shall not cause or permit the excessive blowing of any horn from any vehicles which his/her family, tenants, invitees or others is using when in driveways or parking areas within the development.
- Radios, stereos, or other sound systems are not permitted while washing an automobile on the common areas.

#### **RULES REGARDING PARKING**

- No junk vehicle, or other vehicles on which current registration plates are not displayed, shall be kept upon any of the common areas or lots unless stored within a garage or other such permitted structure. No repair or extraordinary maintenance may be carried out on any common areas or lots. No automobile fluids may be changed, or allowed to run on to common areas. (See page 29, item e in Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association.)
- Commercial vehicles, including trailers of any type, may not be kept on streets, common parking areas or lots, unless contained within a garage or other such permitted structure.
- No boats or trailers, may be kept in driveways, or on streets, common parking areas or lots, unless contained within a garage or other such permitted structure.

## **RULES REGARDING OUTSIDE STRUCTURES**

- No lumber, metals, bulk (bagged, boxed, crated, etc.) materials, refuse or trash shall be kept, stored or allowed to accumulate on any lot, except building materials during the course of actual construction of any approved structure. (See page 29, item b in Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association.)
- Decks and fences and other approved outside structures shall have only clear or natural finishes. No pigmented stains or paints may be used.
- Ladders, hoses, portable hose reels and other lawn care and maintenance equipment shall be stored in such a manner so that they cannot be seen from any public way or from any other lot. (See page 29, item d in Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association.)

## **RULES REGARDING RENTALS**

- No basement, garage, or other structure erected or maintained on any lot within the development shall at any time be used as a separate residence, either temporarily or permanently. (page 32, item "U" of Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association)
- Leases of Lots within the Association must be for periods of at least 6 months.
- All leases of lots within the Association shall be filed with the Board of Directors at the management office for the Association within 5 days of the commencement of such lease period.
- All leases of lots within the Association shall contain a lease addendum on the form approved by the Board of Directors.

## **RULES REGARDING TRASH REMOVAL**

- Ternberry has had continuing problems with vermin, animals and birds tearing open trash bags placed at the curb, resulting in garbage and trash being scattered over the neighborhood. This is unsightly and encourages rodent infestation, which is a health hazard. As a result, residents shall, effective August 1, 1998, place all garbage or trash for pickup in covered, animal-proof containers - with these exceptions: 1.) recyclable material should be put out in a City-issued container and 2.) yard waste (i.e. - clippings, etc.) may be put out in plastic bags.
- No burning of trash shall be permitted on any lot. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pickup is to be made at such place on the lot so as to provide access to persons making such pickup. At all other time such containers shall be stored in such a manner so that they cannot be seen from any public way or from any other lot. (See page 29, item d in Declaration of Covenants, Conditions, and Restrictions of Ternberry Homeowners Association.)

## **ENFORCEMENT**

These Rules and Regulations, as well as the provisions of the Declaration, Bylaws, and any subsequent rules and regulations that may be adopted, shall be subject to enforcement in accordance with the following procedures entitled “**TERNBERRY HOMEOWNER’S ASSOCIATION, INC. RULES AND COVENANT ENFORCEMENT PROCEDURE**” and annexed hereto:

**TERNBERRY HOMEOWNER'S ASSOCIATION, INC.**  
**RULES AND COVENANT ENFORCEMENT PROCEDURE**

Pursuant to Article V, Section 3(d) of the Bylaws of the Ternberry Homeowner's Association, Inc., the Board of Directors of the Ternberry Homeowner's Association, Inc. hereby adopts the following Rules and Covenant Enforcement Procedure:

**A. Notification of Violation.** Whenever the Board of Directors becomes aware of a violation of the Association's Declaration, Bylaws (hereinafter collectively referred to as the "governing documents") or any adopted Rules and Regulations, it will send a cease and desist letter to the homeowner (and, if applicable, the tenant of such homeowner) who has committed such violation. The cease and desist letter will be sent to the homeowner at such address which is reflected on the Association's records pursuant to Article IV, Section 5 of the Association's Bylaws. The cease and desist letter (samples of which are attached hereto as Attachments "A1" (continuing violation) and "A2" (non-continuing violation)) shall state:

1. The Rule or Covenant which has been violated;
2. The homeowner's conduct or action which violates the Rule or Covenant;
3. The action required to correct the violation; and
4. The type of violation, continuing or non-continuing.
  - a. A continuing violation consists of action or inaction taken by a homeowner or his or her guest, invitee, or resident which presents an ongoing uninterrupted violation of the Association's governing documents or Rules and Regulations. Examples of continuing violations include but are not limited to: (1) breeding or raising of animals, livestock or poultry of any kind; (2) continuously (without removal or interruption) parking a junk vehicle upon any Lot; (3) continuously maintaining or storing refuse or trash on any Lot; (4) painting a home or any other structure on the Lot in such color which violates the established guidelines; (5) storing ladders, hose reels or other equipment in plain view; and (6) maintaining a kennel on any Lot. For a continuing violation, the following procedures shall apply:
    - i) The initial cease and desist letter shall include a request that the violation be corrected within fifteen (15) days from the date of the letter and a statement advising the homeowner that the failure to correct the violation within the time allotted will result in a hearing being scheduled by the Board of Directors to consider the matter. The letter shall further advise the homeowner that the Board of Directors may impose penalties for the violation, including fines, suspension of voting rights and use of common areas and recreational facilities not to exceed thirty (30) days, action to correct the violation at the expense of the homeowner, and legal action to compel compliance.

ii) If the violation continues after the fifteen (15) day period allotted in the cease and desist letter, the Board shall send a second letter to the homeowner advising him or her that a hearing will be held before the Board of Directors at a specified date, time and place. The hearing shall be scheduled at least fifteen (15) days from the date of the letter. The letter shall advise the homeowner that he or she may present evidence and cross-examine witnesses at the hearing in his or her defense of the alleged violation. In addition, the letter shall provide notice to the homeowner that the Board of Directors may impose sanctions against the homeowner for the violation. The sanctions imposed may include, but are not limited to, imposition of fines, the suspension of voting rights and use of the common areas and recreational facilities not to exceed thirty (30) days, the decision to take action to correct the violation at the expense of the homeowner, and the initiation of legal action to compel compliance with the Association's Declaration, Bylaws and established rules and covenants. (A sample hearing notice is attached hereto as Attachment "B").

b. A non-continuing violation is an action or inaction of a homeowner or his or her guest, invitee, or resident which is a single occurrence and is not continuing or ongoing in nature and is a violation of the Association's governing documents or Rules and Regulations. Examples of non-continuing violations include but are not limited to: (1) allowing domestic pets to be on the common areas unattended or unleashed; (2) parking an unlicensed or inoperable vehicle in the common area parking lot overnight; (3) playing loud music at night which creates a nuisance to another member; (4) behaving in a manner that creates a nuisance and interferes with another's use and enjoyment of his or her Lot. While such conduct may be performed again and again, the occurrences are not uninterrupted and therefore begin anew each time. For a non-continuing violation, the following procedures shall apply:

i) The initial cease and desist letter shall state the conduct which violated the provisions of the governing documents or Rules and Regulations. The letter shall include a statement that should further violation of the same provision of the Association's governing documents or Rules and Regulations occur again within the next twelve (12) months, the Board of Directors may take action to enforce the governing documents or Rules and Regulations which have been violated and may impose sanctions after further notice and hearing.

ii) If a second violation of the same provision of the Association's governing documents or Rules and Regulations recurs within twelve (12) months, the Board shall send a second letter to the owner which shall state:

- a. The Rule or Covenant which has been violated;
- b. The homeowner's conduct or action which violates the Rule or Covenant;
- c. The action required to correct the violation;

- d. The type of violation, continuing or non-continuing;
- e. A hearing has been scheduled at a specified date, time and place before the Board of Directors to consider the matter. Said hearing shall be scheduled at least fifteen (15) days from the date of the letter. The homeowner shall be advised that he or she may present evidence and cross-examine witnesses to defend himself or herself against the alleged document provision or Rule or Covenant violation.
- f. At the hearing, the Board of Directors may impose sanctions against the homeowner, which may include, but may not be limited to the imposition of fines, suspension of the use of the common areas and recreational facilities not to exceed thirty (30) days, the decision to take action to correct the violation at the expense of the owner, the suspension of voting rights, and legal action to compel future compliance with the provisions of the governing documents and Rules and Covenants. (A sample second letter/hearing notice is attached hereto as Attachment "C").

**B. Hearing.** At any Rules or Covenant enforcement hearing, the homeowner or the alleged violator shall have a right to present evidence and to present and cross-examine witnesses. Proof of notice of the hearing shall be made a part of the hearing record. The notice required is deemed satisfied if the violator appears at the meeting. The minutes of the meeting shall contain a summary of the evidence presented and a written statement of the decision of the Board of Directors and the sanctions, if any, imposed.

If the Board determines that a violation of the governing documents, rules or covenants has been committed, the Board will send a letter to the homeowner within fifteen (15) days of the hearing stating the decision of the Board, including any action required to correct the violation and any sanction imposed by the Board. If the Board of Directors determines that there has been no violation, the homeowner shall be so advised by a letter from the Board within fifteen (15) days of the hearing. Sample notices of the Board's decision are attached hereto as Attachments "D1" and "D2".

**C. Sanctions.** If the Board of Directors determines that a violation has occurred, the Board may, upon its own discretion, impose one or more of the following sanctions:

1. Cease and Desist Order directing that the violation stop and that corrective action be taken;
2. Fines;
3. Suspension of Association voting rights not to exceed thirty (30) days;
4. Suspension of use of common areas and recreational facilities not to exceed thirty (30) days; and
5. If the violation consists of the owner's failure to maintain the exterior of his or her lot or improvements thereon, take appropriate measures to correct the violation at the expense of the owner and the cost of same shall become a lien against the Lot.

**D. Schedule of Fines.** If the Board of Directors determines that the homeowner is committing a continuing violation of the Association's governing documents or Rules and

Regulations and that the violation has not been corrected by the date specified by the Board of Directors in the initial cease and desist letter sent to the homeowner or tenant, then the Board of Directors may impose a fine in the amount of fifteen dollars \$(15.00) per day or one hundred dollars (\$100.00) per month.

If the Board of Directors determines that the homeowner has committed a non-continuing violation of the Association's governing documents or Rules and Regulations within twelve (12) months subsequent to the initial cease and desist letter sent to the homeowner or tenant by the Board of Directors, then the Board of Directors may impose a fine in the amount of \$25.00 for the first offense and \$50.00 for a second offense of the same non-continuing violation.

**E. Enforcement.** The Board of Directors shall collect fines in such amounts as outlined above. All moneys collected by the Association from a homeowner for any reason, including moneys collected for regular and special assessments, shall first be applied to fines until satisfied and the balance, if any, toward assessments.

Adopted this 23rd day of March, 1997, by the Board of Directors of the Ternberry Homeowner's Association, Inc.

ATTEST:

/s/  
\_\_\_\_\_  
John Butler, President  
Ternberry Homeowner's  
Association, Inc.

/s/  
\_\_\_\_\_  
Charles W. Caldwell, Secretary/Treasurer  
Ternberry Homeowner's  
Association, Inc.

**ATTACHMENT A1**  
**Continuing Violation Cease and Desist Letter**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Violation of the Rules and Covenants of the Ternberry Homeowner's Association, Inc.

Dear Mr. Doe:

The Board of Directors of the Ternberry Homeowner's Association, Inc. has become aware that you are currently in violation of the Association's governing documents and/or Rules and Regulations.

It is our understanding that you have (insert conduct that is the nature of the violation). Such action constitutes a violation of Paragraph \_\_\_\_\_ of the Association's (insert governing documents or Rules and Regulations, whichever is applicable) and is a continuing violation.

In order to comply with the Association's (insert governing document or Rules and Regulations, whichever is applicable), the Board of Directors requests that you take the following action: (insert conduct that homeowner can take to comply with Rules and Covenants)

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Please be advised that should you fail to take corrective measures as outlined above within ten (10) days from the date of this letter, the Board of Directors will schedule a hearing to consider the matter and determine the action that it will take to enforce the Association's governing documents or Rules and Regulations. Please be advised that pursuant to the Association's Rules and Covenants Enforcement Procedure, the Board of Directors may impose penalties for the violation, including fines, suspension of use of common areas, suspension of voting rights, action to correct the violation at your expense, and legal action to compel compliance.

We hope that you will take the appropriate measures to correct the noted violation and comply with the Association's governing documents and Rules and Regulations within the time allotted, so that additional action is not necessitated.

Sincerely,  
Board of Directors

**ATTACHMENT A2**  
**Non-Continuing Violation Cease and Desist Letter**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Violation of the Governing Documents or Rules and Regulations of the Ternberry Homeowner's Association, Inc.

Dear Mr. Doe:

The Board of Directors of the Ternberry Homeowners Association, Inc. has become aware that you have violated the Association's governing documents and/or Rules and Regulations.

It is our understanding that you have \_\_\_\_\_  
(insert conduct that is the nature of the violation)

Such action constitutes a violation of Paragraph \_\_\_\_\_ of the Association's \_\_\_\_\_ (insert governing documents or Rules and Regulations, whichever is applicable) and is a non-continuing violation.

Please be advised that should such violation recur within the next twelve (12) months, the Board of Directors may take action to enforce the Association's \_\_\_\_\_ (insert governing documents or Rules and Regulations, whichever is applicable). If such action is necessitated, the Board of Directors will schedule a hearing to consider the matter and may impose sanctions to enforce the Association's governing documents or Rules and Regulations.

We hope that you will modify your actions so as to comply with the Association's governing documents and Rules and Regulations and to eliminate the need for additional action to be taken.

Sincerely,  
Board of Directors

**ATTACHMENT B**  
**Notice of Hearing - Continuing Violations**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Notice of Hearing regarding Violation of Governing Documents and/or Rules and Regulations of Ternberry Homeowners Association, Inc.

Dear Mr. Doe:

The Board of Directors of the Ternberry Homeowners Association, Inc. has previously advised you that you are in violation of the Association's governing documents and/or Rules and Regulations.

It is our understanding that you have \_\_\_\_\_ (insert conduct that is the nature of the violation) Such action constitutes a violation of Paragraph \_\_\_\_\_ of the Association's \_\_\_\_\_ (insert governing documents or Rules and Regulations, whichever is applicable) \_\_\_\_\_ and is a continuing violation.

Please be advised that in order to remedy the violation, you must \_\_\_\_\_ (insert the action required to correct the violation) \_\_\_\_\_

As you failed to remedy this violation within ten (10) days of the previous correspondence sent to you, the Board of Directors has scheduled a hearing to consider the matter and to determine the action that it will take to enforce the Association's governing documents or Rules and Regulations. The hearing is scheduled for \_\_\_\_\_ (insert date and time of hearing) and will be held at \_\_\_\_\_ (insert place of hearing) \_\_\_\_\_.

Please be advised that at the hearing, you may present evidence and cross-examine witnesses to defend yourself against the alleged document provision or Rules and Regulations violation. In addition, please be advised that upon hearing the matter, the Board may impose sanctions against you which may include, but are not limited to, the suspension of the use of the common areas and recreational facilities not to exceed thirty (30) days, initiation of action to correct the violation at your expense, suspension of voting rights not to exceed thirty (30) days, and the initiation of legal action to compel future compliance with the Association's governing documents and Rules and Regulations.

We hope that you will modify your actions so as to comply with the Association's governing documents and Rules and Regulations and to eliminate the need for additional action to be taken.

Sincerely,  
Board of Directors

**ATTACHMENT C**  
**Hearing Notice**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Notice of Hearing

Dear Mr. Doe:

The Board of Directors of the Ternberry Homeowner's Association, Inc. has become aware that you have violated the Association's governing documents and/or Rules and Regulations.

It is our understanding that you have (insert conduct that is the nature of the violation) . Such action constitutes a violation of Paragraph \_\_\_\_\_ of the Association's (insert governing documents or Rules and Regulations, whichever is applicable) and is a non-continuing violation.

Please be advised that in order to remedy the violation, you must (insert the action required to correct the violation)

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As you had previously violated this Rule or Covenant within the last twelve (12) months and were notified of same, the Board of Directors has scheduled a hearing to consider the matter and to determine the action that it will take to enforce the Association's governing documents or Rules and Regulations. The hearing is scheduled for (insert date and time of hearing) and will be held at (insert place of hearing).

Please be advised that at the hearing, you may present evidence and cross-examine witnesses to defend yourself against the alleged document provision or Rules and Regulations violation. In addition, please be advised that at the hearing, the Board may impose sanctions against you which may include, but are not limited to, the suspension of the use of the common areas and recreational facilities not to exceed thirty (30) days, initiation of action to correct the violation at your expense, suspension of voting rights not to exceed thirty (30) days, and the initiation of legal action to compel future compliance with the Association's governing documents and Rules and Regulations.

We hope that you will modify your actions so as to comply with the Association's governing documents and Rules and Regulations and to eliminate the need for additional action to be taken.

Sincerely,  
Board of Directors

**ATTACHMENT D1**  
**Notice of Board Decision - Violation**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Notice of Hearing of Violation of Governing Documents or Rules and Regulations

Dear Mr. Doe:

The Board of Directors met on (insert date of meeting) to consider your alleged violation of the Ternberry Homeowner's Association, Inc.'s governing documents and/or Rules and Regulations. At this meeting, the Board of Directors found that your actions constitute a violation of the Association's (insert governing documents or Rules and Regulations, whichever is applicable) as (insert basis of Board's decision)

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As a result of this violation, pursuant to the Association's Rules and Covenant Enforcement Procedure, please be advised that the Board of Directors has imposed the following sanctions against you: (insert nature of sanctions (fines) imposed).

Please take the appropriate measures to correct such violation and to satisfy the sanctions imposed against you, if applicable, upon receipt of this letter. Be advised that should you fail to remedy the violation and satisfy the sanctions, the Board of Directors may initiate legal action to compel compliance.

We hope that you will agree that it is in your best interest to comply with the Association's governing documents and Rules and Regulations without the need for further action on behalf of the Association.

Sincerely,  
Board of Directors

**EXHIBIT D2**

**Notice of Board Decision - No Violation**

Mr. John Doe  
123 Main Street  
City, State 12345

Re: Notice of Hearing of Governing Documents and Rules and Regulations Enforcement  
Procedure

Dear Mr. Doe:

The Board of Directors met on (insert date of meeting) to discuss the nature of your alleged violation of the Ternberry Homeowners Association, Inc.'s governing documents and/or Rules and Regulations. At this meeting, the Board of Directors found that your actions did not constitute a violation of the Association's governing documents or Rules and Regulations and thus no further action will be taken against you for such conduct.

Sincerely,  
Board of Directors