

Dear Owners:

Our Declaration of Covenants, Conditions and Restrictions (“Covenants”) which is the main document for Countryside, was recorded with Galveston County when our neighborhood was first constructed in 1977, and the Countryside Homeowner Association (“Association”) was also created at that time to manage and regulate the subdivision. This was early in the era of restricted communities in our area, and there were very few laws then to guide or assist the Association in enforcing and updating the Covenants. But now, because most residential communities have restrictive covenants and associations, there are more state statutes which provide for governance and enforcement remedies for associations and due process safeguards for owners.

We are proposing two amendments to the Covenants which would give the Association the ability to fine owners for violations of the use restrictions and streamline the amendment process of the Covenants. Below is a discussion of these two proposals:

1. Ability to Fine for Violations of the Covenants

One of the most important objectives of the Association is to oversee the enforcement of the use and maintenance restrictions contained in Covenants. The Board believes that it is in the best interests of all of the owners in Countryside that the homes be well-kept and fairly similar in design and characteristics, because there is a correlation between appearance and value. We think most of you agree because many owners express their concern about the violations they observe; but, under the Covenants as they are currently written, the Board can only send notices to the violating owners and, in the most egregious cases, take the matter to a court. Letters are often ineffective, and lawsuits are very expensive and time consuming.

We have some owners who repeatedly violate the same Covenants, such as leaving out trash receptacles and not maintaining their yards, and this causes the Association to have to expend its time and resources on a constant basis. We think a better way to encourage owners to maintain their properties in a neat and attractive manner is to impose fines for when there are infractions of the Covenants; but Texas law itself does not provide a statute that gives associations the power to fine – it must also be added to our Covenants by an amendment.

When you review the amendment language you will see that it includes specific regulations providing safeguards so that the fines are fairly and uniformly applied. For example, no one may be fined for an ongoing violation unless they have first been given a notice and an opportunity to cure before a fine is imposed, unless the violation poses a threat to public health and safety (i.e. could materially affect the physical health or safety of an ordinary resident). Further, before a fine may be imposed for an ongoing violation, an owner may request a hearing before the Board. Prior to the hearing the owner shall receive a packet containing all documents, photographs, and communications relating to the violation, so that the owner is afforded due process. If an owner or a member of their family caused damage to the common areas and are asked to pay for repair or replacement of Association property, or if an owner has violated any rules or regulations established by the Board governing the use of the Common Area and facilities and may be suspended from use of the recreational facilities, these notice and hearing provisions also apply.

After the hearing, if it is shown that the owner has violated the Covenants, the owner will be notified that he or she will be assessed a reasonable fine. If an owner repeats the same or similar violations within the following six months, the Association may fine again and will not have to start over with the notice and hearing process. This will avoid Association time and expense on owners who repetitively violate the Covenants.

2. Amendment Procedure

Currently, the Covenants state that for the first 40 years it requires the approval of 90% of the owners and thereafter 75% of the owners to amend the Covenants. This is no longer applicable because a relatively new law states that any set of restrictions in Texas may be amended by 67% of the owners. However, the Covenants also state that any amendment must be signed by all of the owners who agree with the amendment, and those signatures be recorded in the Galveston County records. We propose to change this for two reasons: 1) it is extremely difficult to get owners to sign on the same pages (and each page costs a recording fee), and 2) many owners don't want others to see how they voted on an amendment. We propose that the Covenants be changed so that the accurate percentage of 67% is shown and that future amendments can be made by a ballot that is kept in the Association's office and not made a public record. Instead of showing all of the owner's signatures, an officer of the Association would certify that the amendment had been properly approved by affirmative ballot of the required 67% of the owners.

For these reasons we are asking the owners to approve the amendment to the Covenants so that the Association has ability to fine owners for violating the covenants and allow owners to vote on future amendments by ballot. The amendment document is enclosed for your review. If you approve of the measures included in the amendment document, please sign the page titled "Owner Approval to Adopt Second Amendment to Declaration of Covenants, Conditions, and Restrictions Relating to Countryside, Sections One and Two" ("Owner Approval") and return it to the office at your earliest convenience, but no later than September 15, 2022. If you share ownership with another person, such as husband and wife, please make sure that both of your signatures and printed names are on the Owner Approval.

If you have any questions before the meeting, please contact Jay Personette at the management office in person or at (281)332-1091.