

## Dunham Lake Property Owner's Association

### Common Area Encroachment Abatement Procedure and Fine Policy

This procedure is set forth by the direction of the Dunham Lake Civic Committee, as specified by paragraph nine of the Common Area Management Policy.

#### Encroachment Abatement Procedure

A written notice will be mailed to each property owner whose lot is adjacent to the common DLPOA property and will be subject to the perimeter inspection approximately a week prior to the inspection and a reminder will be posted to the electronic message group. This will include a reminder of the common area management policy expectations and this procedure.

The Dunham Lake Property Owner's Association (DLPOA) Board will identify a few individuals (representatives from the DLPOA Board, Civic Committee and a resident at large) responsible for the annual inspection of the perimeter of the common area property, the boundary identified by the 4x4 posts with numbered tags. Potential encroachments identified during the inspection will be reported back to the Board.

The procedure for addressing an encroachment on the Common Areas will be as follows:

- 1) The Board will receive and review the report from the annual inspection, verify and address each alleged encroachment.
- 2) The Board will make an initial contact either in person or in writing to the property owner / resident to communicate the encroachment and expected resolution. A written record of the contact and expected resolution will be maintained by DLPOA. The Board will identify two persons to make this initial contact.
- 3) The Lot owner / resident will be given two weeks to comply and respond in writing to the DLPOA
- 4) If initial contact cannot be made OR the encroachment is not addressed within the initial two week period, a formal written notice known as Letter #1, will be drafted by the Board, authorized (signed) by a member of the Board and Civic Committee, and sent to the Lot Owner. This letter #1 will include:
  - a. Description of the possible encroachments with photos if available
  - b. Description of the action required for the resolution of the Encroachment (i/e/ cleaning up of debris, removal of plantings, cessation of mowing, etc.)
  - c. Notification that a written response is required within two weeks from the Lot Owner to DLPOA stating that the encroachment has stopped, required corrections have been made, and acknowledgement that future encroachments are not acceptable. Verbal or emailed responses are not accepted.
  - d. Consequences of failure to respond and comply.
  - e. References for the Common Area Management Policy and this Encroachment Abatement procedure and fine policy
- 5) If a written response is received that the Lot Owner disagrees with the findings on the encroachment Letter #1, a meeting with the property owner and DLPOA will be arranged to review the situation.

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- 6) If a written response is received within the two weeks, the response adheres to the expected resolution, and the encroachment abatement action has been completed verifiable by the Board, the situation will be considered closed. Record of these letters will be maintained by DLPOA.
- 7) If the Encroachment activity documented in Letter #1 continues, or another encroachment occurs within 5 years by that lot owner, or written acknowledgement has not been received by DLPOA within the specified time period, a second written notice known as Letter #2, will be drafted by the Board, authorized by the Board and Civic Committee, and sent to the Lot Owner. The repeat encroachment DOES NOT need to be the same violation as that documented in Letter #1 to initiate a Letter #2. This Letter #2 will include:
  - a. Description of the possible encroachments with photos if available
  - b. Description of the action required for immediate cessation of activity and the resolution of the Encroachment (i/e/ cleaning up of debris, removal of plantings, cessation of mowing, etc.)
  - c. Notification that a written response is required within two weeks from the Lot Owner to DLPOA stating that the encroachment has stopped, required corrections have been made, and acknowledgement that future encroachments are not acceptable. Verbal or emailed responses are not accepted.
  - d. Notification that a monetary fine will be assessed to the Lot Owner by the Civic Committee pursuant to the Fine policy listed below
  - e. References for the Common Area Management Policy and this Encroachment Abatement procedure and fine policy
  - f. Notification that failure to respond will initiate Civic Committee action to assess additional fines, perform remediation work to restore common area grounds at the expense of the homeowner, and may seek legal action to prevent further damage.
  - g. Letter #2 will be sent certified mail with return receipt
- 8) If a written response is received within the two weeks, the response adheres to the expected resolution, the encroachment abatement action has been completed verifiable by the board, and the fine has been paid, the situation will be considered closed.
- 9) If the Encroachment activity documented above continues or written acknowledgement to the letter #2 has not been received by DLPOA within the specified time period, The DLPOA Board may authorize immediate restoration activity, and the Civic Committee may assess additional fines to compensate for the cost of restoration work, and the Civic Committee may consult for legal action. Legal action would be to obtain court order to stop encroachment activity as well as for recovery of costs to restore common area grounds to their initial natural state, reversing the effect of the encroachment.
- 10) Record of these letters will be maintained by DLPOA.
- 11) Initial contact will be made for each encroachment situation. Only one Letter #1 will be sent within a period of 5 years from a previous encroachment, all subsequent letter notifications for

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any encroachment activity within 5 years of a previous encroachment will automatically result in a Letter #2 and a fine.

- 12) In the event of an encroachment deemed an emergency by the DLPOA Board where extreme damage may occur to the common areas, the Board and Civic Committee reserve the right to accelerate the above process noting time may be of essence to abate a problem. Action may include filing for an immediate injunction.
- 13) In the event of an encroachment where it is unclear who may be the responsible party, a notice will be sent to lot owners who may have knowledge of the situation

This procedure does not supercede or negate any previous or ongoing action underway to end a current encroachment.

#### Monetary Fine Procedure

The purpose of the DLPOA fine policy is to encourage prompt resolution of and discourage future common area property encroachments and to compensate administrative cost.

- 1) When cause for an Encroachment abatement Letter #2 is initiated, the Civic Committee will automatically assess a monetary fine of \$100 to the responsible lot owner.
- 2) If the Letter #2 requirements are not fulfilled, the Civic Committee may assess additional fines for administrative and restoration action as indicated above
- 3) For each additional or subsequent encroachment notice Letter #2 within a 5 year period from the previous letter #2, the fine amount will double from the prior amount.
- 4) After a period of 5 years without any encroachments, the fine amount is reset for that Lot Owner
- 5) All unpaid fines will result in a lien against the property imposed by the Civic Committee

A summary of encroachment violations and responses may be posted to the Website or published in the Laker and will be presented at the annual meeting of the DLPOA.

#### SAMPLE LETTERS - Attachments

- 1) Letter #1
- 2) Letter #2
- 3) Response Letter

This Concludes the Common Area Encroachment Abatement Procedure and Fine Policy

Revised and Accepted 5/18/2017 Dunham Lake Civic Committee