

STONEGATE VILLAGE OWNERS ASSOCIATION, INC.
RESOLUTION
REGARDING THE USE OF OUTDOOR FIREPLACES, FIRE PITS, AND SIMILAR
EQUIPMENT

RECITALS:

- A. Article VIII of the recorded Declaration of Covenants, Conditions, and Restrictions for Stonegate Village Owners Association authorizes the Association acting through the Board of Directors, to make and enforce reasonable rules governing the use of the Properties that are consistent with the rights and duties established by this Declaration.
- B. The Land Use Standards attached as Exhibit C to the recorded Declaration has various sections that prohibit owners from using their property in such a manner so as to create a nuisance for the owners of other property within the Stonegate Village community. Section 27 of the Land Use Standards states No noxious or offensive activity shall be carried on upon any residential unit lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- C. The Stonegate Village Owners Association Community-Wide Standards revised March 2010 section addressing chimineas, smokers, fire pits, and outdoor fireplaces provides that in all cases the chimineas and smokers must not create an unreasonable amount of smoke to adjoining property owners.
- D. The Board of Directors has recently received complaints from various members and residents regarding their neighbors using outdoor fire places, fire pits, and similar outdoor equipment in such a manner as to cause the smoke to deprive the complaining member of the peaceful enjoyment of their property.
- E. The South Metro Fire Rescue specifies "Portable outdoor fireplaces do not have a required minimum clearance from structures and combustible materials but are recommended to be operated at least 15' away from these things".
- F. Historically the Association has suggested the complaining member contact Douglas County about such complaints. The Board has been told the Douglas County explains that the smoke complaints are a civil matter and the complainant should take the issue to the Owners Association. The Board recognized that all applicable governmental jurisdictional fire/smoke bans must be adhered to by the community members and its residents.
- G. The Board of Directors would agree that using an outdoor fireplace or fire pit in a manner that causes an unreasonable amount of smoke to drift into the adjoining residences would be offensive and would constitute an annoyance to a reasonable person.
- H. The Board would also agree that members have a right to use outdoor fireplaces, fire pits, and similar outdoor equipment provided they do not unreasonably interfere with the adjoining owners' right to the peaceful enjoyment of their property and may only be used from the hours of 10:00 a.m. to 10:00 p.m.

THEREFORE, IT IS RESOLVED that the Board of Directors of the Owners Association having allowed the members of the Association an opportunity to speak on this proposal adopts the following rule:

A resident of the Stonegate Village community may use outdoor fireplaces, fire pits, and similar outdoor equipment provided the equipment is placed on a non-flammable surface when in use and that use of such equipment does not cause smoke or smoke odor to unreasonably interfere with the adjoining owners' right to peaceably enjoy their property or in a manner to be offensive or to be an annoyance to a reasonable person. In order to minimize the affects of smoke and smoke order to the adjoining properties, it is strongly suggested that owners to not burn wood.

Each owner of real property within the Stonegate Village community has the right to institute proceedings to enjoin a violation of the provisions in the Declaration and the rules of the community in the same manner and with the same effect as the Association does.

The Owners Association's obligation to enforce the provisions of the Declaration and the rules is subject to business judgment. As a general rule, the Owners Association will be reluctant to initiate formal enforcement proceedings of this rule absent a showing that the use of the outdoor equipment is causing a significant interference with an adjoining owner's ability to enjoy his/her property and that a reasonable person would consider the use both offensive and annoying. The Owners Association will expect the complaining owner to exhaust reasonable efforts to resolve the matter with the alleged violator informally and by using honest efforts to mediate the situation before asking the Board of Directors to implement formal enforcement proceedings.

Date: April 2, 2018

Debra L. Tidler

As Secretary of the
Stonegate Village Owners Association, Inc.