

Villages of Westcreek Owner's Association, Inc.
Administrative Resolution No. 32
Fence Maintenance on Major Roads

WHEREAS, Article VII, Section 7.13 of the BY-LAWS directs the BOARD to exercise for the Villages of Westcreek Owner's Association, Inc. (VWOA) all powers, duties and authority vested in or delegated to this ASSOCIATION and not reserved to the membership by other provisions of these BY-LAWS, the ARTICLES OF INCORPORATION, or the VILLAGES OF WESTCREEK DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (PROJECT DOCUMENTS): and

WHEREAS, the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS establishes as a purpose the creation of a Homeowner's Association the preservation of values and amenities of the lots in the subdivision; and

WHEREAS Article V Para 5.02 of the DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS establishes as a purpose for the collection of assessments the maintenance of privacy fences abutting a Major Street, specifically along Military Drive West, Westcreek Oaks Drive, Westcreek View, Grosenbacher Road, Potranco Road and Talley Road; and

WHEREAS, the extent of maintenance is not otherwise defined; and

WHEREAS, Webster's Dictionary defines maintenance as "the upkeep of property or equipment", and

WHEREAS, Article X, Paragraph 10.12, of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS requires, "the owner and lessee of any lot shall have the duty of and responsibility for keeping the premises, improvements and appurtenances and landscaping in a well maintained, safe, clean and attractive condition at all times. If, in the opinion of the Declarant or its assigns or successors, or the Association, any such owner or lessee is failing in the duty and responsibility, then the Declarant, its successors, or assigns or the Association may give notice of such fact and such Owner or lessee shall have within ten (10) days of such notice, undertake the care and maintenance required to restore said Owner's or lessee's Lot to a safe, clean and attractive condition"; and

WHEREAS, none of the subject fence line is currently held or owned by the ASSOCIATION and none of the fence abuts property owned by the Association; and

WHEREAS, there is a need to establish a orderly procedures for the determination of which sections of the fence are in need of maintenance; and

WHEREAS, there is a need to establish orderly procedures for the assignment of a contract to attend to said maintenance; and

WHEREAS the cooperation of several independent owner-members and/or tenant – occupants can be required to maintain certain sections of fence; and

WHEREAS, it is the intent of the BOARD to meet its obligation according to the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS; and

WHEREAS, it is the intent of the BOARD to maintain as uniform an appearance as possible along aforementioned boulevards; and

WHEREAS, ADMINISTRATIVE RESOLUTION No 17 has discouraged owner-members and/or tenant-occupants to put their money and time into routine fence maintenance and encourages them to put off replacement of said fence sections that are past their expected replacement dates until the next “fence project”; and

WHEREAS, it is the intent of the BOARD to discourage the neglect of said fencing by owner-members or tenant-occupants who might otherwise consider the fencing the sole responsibility of the ASSOCIATION; and

WHEREAS, it is the intent of the BOARD to secure the cooperation of the owner-members and/or tenant-occupants upon whose property the ASSOCIATION must encroach upon to meet these obligations;

NOW THEREFORE, BE IT RESOLVED THAT the procedures for the identification of these defined fences needing maintenance, notification and arrangement with individual owner-members and/or tenant-occupants to contract with the ASSOCIATION for said maintenance, and the completion of work to maintain fences by an ASSOCIATION hired contractor shall be as follows:

1. Fences shall be deemed in need of this extensive maintenance contract when their appearance shall have passed the point where they no longer present a safe, clean and attractive condition and/or its individual parts are no longer serviceable due to age, neglect and/or weather damage.
2. The VWOA Maintenance Department shall be responsible for reviewing the fence line and recommending to the BOD, which selections of fence are in need of maintenance. This review shall be accomplished and reported to the BOD during the March BOD meeting.
3. The inspection crew shall mark the fences that are deemed to be unsafe, unclean or unattractive and a letter sent to the owner-member with specific details of the required replacement and or repair of said fence.
4. In general, fences will be in two groups. One group will require full replacement. The other group will require specific replacement of selected segments, to include slats, runners, posts, or any combinations thereof.
5. Within said letter, there shall be a published due date, set by the BOD, where all repairs and replacements shall be required to be accomplished by the homeowner.
6. Within 2 weeks from said due date above; the VWOA will commence staining of said repaired/replaced fencing. If the fence repair/replacement is not

- accomplished for the VWOA to stain the homeowner shall be responsible for the staining in addition to the aforementioned repair/replacement.
7. Only Architectural Review Committee approved materials shall be used.
 8. The costs of said replacement and/or repair shall be heretofore the sole responsibility of the owner-members. The cost of maintaining the stain, and graffiti removal, of the external side (facing the street) of the fencing deemed "safe, clean and attractive" shall be heretofore the sole responsibility of the Villages of Westcreek Owner's Association.
 9. The VWOA maintenance staff or designee shall accomplish a yearly review of the fencing along the Major Streets. A report of the review will be submitted to the BOD no later than March on a yearly basis.
 10. Approved by vote of the BOARD, 05/21/2009 and recorded in the Book of Minutes.

//Original signed//

By: _____
Harold (Rick) Severs, President

ATTEST:

Liliane Castillo, Secretary