

### **ATTACHMENT 3**

## **TERRACINA RESIDENTIAL COMMUNITY, INC.**

### **COVENANT ENFORCEMENT, FINING AND HEARING POLICY**

**WHEREAS**, Terracina Residential Community, Inc. ("Association") has authority pursuant to the (i) Declaration of Covenants, Conditions and Restrictions, recorded on June 23, 2011, at Instrument No. 2011-57614 of the Official Public Records, Denton County, Texas, and re-recorded on June 27, 2011, at Instrument No. 2011-58584 of the Official Public Records, Denton County, Texas (the "Declaration"); and/or (ii) the Bylaws of Terracina Residential Community, Inc., filed for record and recorded on March 29, 2012, at Instrument No. 2012-31824 of the Official Public Records, Denton County, Texas (the "Bylaws"), as such may be amended and/or supplemented from time to time, to adopt rules, regulations and policies concerning the operation of the Association; and

**WHEREAS**, Terracina Residential Community, Inc. - Fine and Enforcement Policy was filed and recorded as Attachment 3 to the Terracina Community Manual on March 29, 2012, at Instrument No. 2012-31824 of the Official Public Records, Denton County, Texas (the "Fine and Enforcement Policy"); and

**WHEREAS**, the Board desires to rescind and replace the Fine and Enforcement Policy; and

**WHEREAS**, the Board of Directors (the "Board") of the Association desires to adopt this Covenant Enforcement, Fining and Hearing Policy, which will be the new Attachment 3 to the Terracina Community Manual, to establish orderly procedures for the enforcement of the covenants, restrictions and rules set forth in, including but not limited to, the Declaration, the Bylaws, any rules and regulations or policies of the Association, any architectural standards bulletins, any guidelines adopted by the Association, or any resolutions of the Board (hereinafter collectively referred to as the "Governing Documents").

**NOW, THEREFORE, IT IS RESOLVED** that the Fine and Enforcement Policy is hereby rescinded and the following procedures and practices are established for the enforcement of the Governing Documents and for the elimination of violations of such provisions found existing on and about the Lots within Terracina Residential Community, Inc. and the same are to be known as the "Covenant Enforcement and Hearing Policy" (to be referred to herein as the "Enforcement Policy") of the Association:

1. Establishment of Violation. Any condition, use, activity or improvement which does not comply with the provisions of the Governing Documents shall constitute a "Violation" under this Policy for all purposes.
2. Report of Violation/Field Observation Report. The existence of a Violation will be verified by a field observation conducted by the Board or its delegate. For the purpose of the Enforcement Policy, the delegate of the Board may include a property

manager or managing agent "Management", an Officer or member of the Board, a member of an Architectural Control Committee, or a member of any other committee established by the Board for this purpose. A timely written report (the "Field Observation Report") shall be prepared by the field observer for Violation which will include the following information:

- a. Identification of the nature and description of the Violation(s).
- b. Identification by street address and legal description, if available, of the Lot on which the Violation exists.
- c. Identification of the authority establishing that the subject improvements, modifications, conduct, conditions, etc. constitute a Violation(s).
- d. The date of the verification observation and name of the person making such observation.

The failure to prepare a Field Observation Report shall not, however, result in the waiver of the Association's right to proceed with enforcement in connection with any Violation.

3. Courtesy Notices to Owner. Prior to sending an Owner a Notice of Violation for a curable Violation as set forth in Paragraph 4 below, to the extent that a Violation is a curable Violation, as further defined herein, as soon as practicable after the preparation of any Field Observation Report, or after a Violation is noticed, the Association will forward to the Owner of the Lot in question, via regular first-class mail, electronic mail, personal delivery, and/or via postcard, a written courtesy notice of the Violation(s) (the "Courtesy Notice"). The Courtesy Notice will state the following:

- a. The nature, description and location of the Violation, including any property damage caused by the Owner.
- b. A description of the action needed to eliminate the Violation.
- c. The Owner has thirty (30) days (or such amount of time as the Association may deem to be reasonable under the circumstances) to cure the Violation, if such is a curable Violation.

4. Notice of Violation. If the Violation is curable and has not been cured by an Owner after the expiration of the time set forth in the Courtesy Notice, or if the Violation is an uncurable Violation, the Association will forward to the Owner of the Lot in question written notice of the Violation(s) by first class mail or personal delivery and by certified mail, return receipt requested (the "Notice of Violation").

A Notice of Violation need not be sent if the alleged violator has previously received a Notice of Violation relating to a same or similar Violation within six (6) months



of the occurrence of the current Violation and was given a reasonable opportunity to cure the Violation. If the Alleged violator was given notice and an opportunity to cure a same or similar Violation within six (6) months, the Board may proceed with enforcing Association remedies as authorized by the Governing Documents and/or this Enforcement Policy without notice to the Owner other than the Notice of Association Decision described in Paragraph 10 below.

For Curable Violations. The Notice of Violation for curable Violations that do not pose a threat to public health or safety will state the following:

- a. The nature, description and location of the Violation.
- b. The date the Violation notice is prepared or mailed.
- c. The authority from the Governing Documents for establishing the Violation, including the authority for recovering property damages caused by the Owner and the authority to fine or suspend an Owner's right to use the common area(s), if any.
- d. A description of the action required to cure the Violation and that the Violation must be cured no later than ten (10) days from the receipt of the Notice of Violation, and, a statement that if the Violation is cured or eliminated by the date specified in the Notice of Violation, then no further action will be taken.
- e. A description of the amount claimed to be due from the Owner for property damage and/or fines, and/or a description of the abatement action to be taken by the Association, if any, if the Violation is not timely resolved by the Owner, and the date on which such action(s) may be taken by the Association.
- f. Statement that on or before the 30<sup>th</sup> day after the date the Notice of Violation was mailed to the Owner, the Owner may request a hearing before the Board of Directors to contest the Violation and/or the Association's remedies or abatement action.
- g. All fees and costs, including attorney fees associated with these services, will be charged to the Owner if the Owner fails to request a hearing on or before the 30<sup>th</sup> day after the date the Notice of Violation was mailed to the Owner, or, if a hearing has been requested, after the conclusion of the hearing.
- h. The Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq), if the Owner is serving on active military duty.

The following are examples, but not an exhaustive list, of acts considered curable for purposes of this Enforcement Policy:

- (1) a parking violation;
- (2) a maintenance violation;
- (3) the failure to construct improvements or modifications in accordance with approved plans and specifications; and
- (4) an ongoing noise violation such as a barking dog.

For Uncurable Violations. The Notice of Violation for uncurable Violations will state the following:

- a. The nature, description and location of the Violation, including any property damage caused by the Owner and any proposed fine or suspension of an Owner's right to use the common area(s), if any.
- b. The date the Violation notice is prepared or mailed.
- c. The authority from the Governing Documents for establishing the Violation, including the authority for recovering property damages caused by the Owner and the authority to fine or suspend an Owner's right to use the common area(s), if any.
- d. A description of the amount claimed to be due from the Owner for property damage and/or the amount of the fine(s) to be levied by the Association.
- e. Statement that on or before the 30<sup>th</sup> day after the date the Notice of Violation was mailed to the Owner, the Owner may request a hearing before the Board of Directors to contest the Violation and/or the Association's remedies or abatement action.
- f. All fees and costs, including attorney fees associated with these services, will be charged to the Owner if the Owner fails to request a hearing on or before the 30<sup>th</sup> day after the date the Notice of Violation was mailed to the Owner, or, if a hearing has been requested, after the conclusion of the hearing.
- g. The Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq), if the Owner is serving on active military duty.

The following are examples, but not an exhaustive list, of acts considered uncurable for purposes of this Enforcement Policy:

- (1) shooting fireworks;
- (2) an act constituting a threat to health or safety (For purposes of this Enforcement Policy, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident);
- (3) a noise violation that is not ongoing;



- (4) property damage, including the removal or alteration of landscape; and
  - (5) holding a garage sale or other event prohibited by a dedicatory instrument of the Association.
- 5. Request for a Hearing. If the Owner challenges the proposed action by timely requesting a hearing such hearing shall be held no later than the 30<sup>th</sup> day after the date the Board receives the Owner's request for a hearing.
- 6. Notice of the Hearing. The notice of the hearing shall be sent no later than the 10<sup>th</sup> day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties.
- 7. Hearing. If an Owner requests a hearing, the following hearing procedures apply:
  - a. Evidence packet. Not later than ten (10) days before the Association holds a hearing under Section 209.007, the Association will provide to the Owner a packet containing all documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing.
  - b. Postponement. If the evidence packet described in the preceding section is not timely provided to the Owner, the hearing will be automatically postponed for fifteen (15) days.
  - c. Hearing presentation. The hearing shall be held in executive session of the Board affording the alleged violator a reasonable opportunity to be heard. At the hearing, a member of the Board or the Association's designated representative will first present the Association's case against the Owner. An Owner or the Owner's designated representative is entitled to present the Owner's information and issues relevant to the matter.
  - d. Proof of Notice. Prior to the effectiveness of any remedy hereunder, proof of proper notice of the hearing shall also be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered into the minutes by the officer, director, agent or delegate who delivered such notice. The notice required shall be deemed satisfied if the alleged violator appears at the meeting.
- 8. Results of the Hearing. The minutes of the Board's executive session meeting shall contain a written statement of the results of the hearing and the remedies sought, if any, by the Board. The Board shall notify the Owner in writing of its action within ten (10) days after the hearing. The Board may, but shall not be obligated to, suspend any proposed remedies the Association is entitled to if a curable Violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver

of the right to enforce remedies the Association is entitled to in connection with future violations of the same or other provisions and rules by any Owner. If a curable Violation is not cured within the ten (10) day period, the Board shall not suspend any proposed remedies.

9. Correction of Violation. If the Violation is a curable Violation, as set forth in Section 209.006 of the Texas Property Code, where the Owner corrects or eliminates the Violation(s) within the time set forth in the Courtesy Notice or in the Notice of Violation, no further action will be taken (except for collection of any monies for which the Lot Owner may become liable under this Enforcement Policy and/or the Governing Documents). Written notice of correction or elimination of the Violation may be obtained from the Board upon request for such notice by the Owner and upon payment of a fee for same, the amount of which is set by the Board.
10. Notice of Association Decision. A notice of the Association's decision and the remedies sought, including the amount of any property damage (the "Notice of Association Decision") will be sent by the Association to the Owner by regular first class mail and by certified mail, return receipt requested, under any of the following situations:
  - a. Where, within the time period specified in the Notice of Violation, the Violation has not been corrected or eliminated;
  - b. Where, within thirty (30) days after the date the Notice of Violation was mailed to the Owner, the Association has not received a written request for a hearing;
  - c. Where, the Owner was previously notified and was given a reasonable opportunity to cure, a similar Violation within the preceding six (6) months; or
  - d. Where the Violation was an incurable violation as further set forth in Section 209.006 of the Texas Property Code.
11. Referral to Legal Counsel. Where a Violation is determined or deemed determined to exist and where the Board deems it to be in the best interests of the Association to refer the Violation to legal counsel for appropriate action, the Board may do so at any time. Such legal action may include, without limitation, sending demand letters to the violating Owner and/or seeking injunctive relief against the Owner to correct or otherwise abate the Violation. Attorney's fees and all costs incurred by the Association in enforcing the Governing Documents and administering the Enforcement Policy shall become the personal obligation of the Owner.
12. Fines. Subject to provisions of the Enforcement Policy and/or the Governing Documents, the imposition of any fine, except as may be otherwise set forth in the Declaration, will be based on the following general categories of fines and fine schedule outlined below:



- a. The general categories of restrictive covenants for which the Association may assess fines are as follows:
    - (i) Article 2 of the Declaration - General Use and Construction Restrictions.
    - (ii) Article 4 of the Declaration - Insurance
    - (iii) Article 6 of the Declaration - Architectural Control Committee.
    - (iv) Article 9 - Easements.
    - (v) Guidelines, Policies, Resolutions and/or Rules adopted by the Board.
    - (vi) All other applicable provisions/restrictions contained in the Governing Documents of the Association.
  - b. Fines for curable violations will be progressive and owners will be fined according to the schedule attached hereto as Exhibit A. The Board reserves the authority to levy a fine or fines that is/are greater, but not less than, the schedule of fines in Exhibit A on a case-by-case basis, for continuous or repeat curable violations, and reserves the authority to assess reasonable fines for other violations of 12.a(ii), (iv), (v) and (vi) above on an incident-by-incident basis.
  - c. Fines for uncurable violations will be \$100.00 for each violation.
  - d. Imposition of the fines will be in addition to and not exclusive of any other rights, remedies and recoveries of the Association as created by the Governing Documents or this Enforcement Policy.
  - e. Fines are imposed against Lots and become the personal obligation of the Owners of such Lots.
13. Notices. Unless otherwise provided in this Enforcement Policy, or as may otherwise be authorized by law or under another controlling provision of the Governing Documents, all notices required by this Enforcement Policy shall be in writing and shall be deemed to have been duly given if delivered personally and/or if sent by United States Mail, first-class postage prepaid, to the Owner at the address which the Owner has designated in writing and filed with the Secretary of the Association or, if no such address has been designated, to the address of the Lot of the Owner.

Where the notice is directed by personal delivery, notice shall be deemed to have been given, sent, delivered or received upon actual receipt by any person accepting delivery thereof at the address of the recipient as set forth in such notice or if no person is there, by leaving the notice taped to the front door of the residence.

- a. Where the notice is placed into the care and custody of the United States Postal Service, notice shall be deemed to have been given, sent delivered or received, as of the third (3<sup>rd</sup>) calendar day following the date of the postmark of such notice bearing postage prepaid and the appropriate name and address as required herein.

- b. Where a day required for an action to be taken or a notice to be given, sent, delivered or received, as the case may be, falls on a Saturday, Sunday or United States Postal Service holiday, the required date for the action or notice will be extended to the first day following which is neither a Saturday, Sunday or United States Postal Service holiday.
  - c. Where the Board has actual knowledge that such situation exists, any action to be taken pursuant to this Enforcement Policy which directly affected the property of the third party or would be the responsibility of a party other than the Owner, notices required under this Enforcement Policy may be given, if possible, to such third party in addition to the Owner. Notwithstanding any notice sent to a third party, the Owner remains the party responsible for compliance with the requirements of the Governing Documents. The Board shall accept a response from any such third party only upon the written direction of the Owner of the Lot upon which the Violation exists.
  - d. Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so as to put the Association on notice or communication from the Association pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.
  - e. Where an Owner transfers record title to a Lot at any time during the pendency of any procedure prescribed by this Enforcement Policy, such Owner shall remain personally liable for all costs under this Enforcement Policy. As soon as practical after receipt by the Association of a notice of a change in the record title to a Lot which is the subject of enforcement proceedings under this Enforcement Policy, the Board may begin enforcement proceedings against the new Owner in accordance with this Enforcement Policy. The new Owner shall be personally liable for all costs under this Enforcement Policy which are the result of the new Owner's failure and/or refusal to correct or eliminate the Violation in the time and manner specified under the Enforcement Policy.
14. Cure of Violation During Enforcement. An Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy. Upon verification by written report to the Board and sent, where appropriate, to the Board that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist. The Owner will remain liable for all costs under this Enforcement Policy, which costs, if not paid upon demand therefore by Management, will be referred to the Board of Directors of the Association for collection.
15. Definitions. The definitions contained in the Declaration and Bylaws are hereby incorporated herein by reference.



**IT IS FURTHER RESOLVED** that this Policy is effective upon recordation in the Public Records of Denton County, Texas. This Covenant Enforcement and Hearing Policy replaces and supersedes in all respects all prior policies and resolutions with respect to covenant enforcement by the Association and is to remain in force and effect until revoked, modified or amended. In the event that any provision of this Policy is deemed by a court with jurisdiction to be ambiguous or in contradiction with any law, this Policy and any such provision shall be interpreted in a manner that complies with an interpretation that is consistent with the law.

This is to certify that the foregoing Policy was adopted by the Board at a meeting of the same held January 03, 2024, and has not been modified, rescinded or revoked.

**TERRACINA RESIDENTIAL  
COMMUNITY, INC.**

By: Michael Avari

Michael Avari

Printed Name

Title: President

EXHIBIT A to ATTACHEMENT 3				
	Category A Transient violations	Category B ACC Violations: (No approval or construction does not comply with approval)	Category C Use violations	Category D Violations, NEC – not elsewhere classified
CCR	2.08 Noise 2.10 Rubbish and Debris (exposed on past 12 hours on collection day) 2.11 Maintenance and Use 2.15 Signs 2.18 Unsightly Articles; Vehicles 2.19 On Street Parking 2.20 Mobile Homes 2.31 Garbage Containers 2.34 Clotheslines; Window Air Conditioners 2.35 Dumping 2.38 & 2.39 Flags	2.10 Rubbish screens 2.13 & 2.14 Antennae 2.16 Tanks 2.17 Temporary structures 2.21 Basketball Goals 2.25 Tennis or Recreational Courts; Playscapes 2.26 Approval for Construction 2.29 Fences 2.30 Alteration or Removal of Improvements 2.40 Energy Efficient Roofing 2.41 Solar Energy Device 2.42 Rainwater Harvesting Systems 6.01 Construction of Improvements	2.04 Hazardous Activities 2.05 Insurance rates 2.06 Mining and Drilling 2.09 Animals – Household Pets 2.23 Damage to Common Area 2.27 Use 2.28 Rentals 2.32 Drainage 2.33 Construction Activities	2.03: Subdividing 2.22 Compliance with Restrictions
VIOLATION STAGE	FINES (Fines are cumulative)			
Initial Violation Notification (per Section 3)	Courtesy Notice	Courtesy Notice	Courtesy Notice	Courtesy Notice
Notice after Courtesy Notice (per Section 4)	Notice of Violation	Notice of Violation	Notice of Violation	Notice of Violation
Second letter sent 30 days after Notice of Violation	\$50	\$100	\$100	\$100
Third letter sent 30 days after Second letter	\$75	\$150	\$200	\$200
Fourth letter sent 30 days after Third letter	\$100	\$200	\$300	\$250
Monthly fine if violation is not cured ten (10) days after Fourth letter	\$200	\$500	\$500	\$500
Fine waiver	See Attachment 3, Section 9	Fines waived if ACC application submitted where none existed within 15 days and approved within 21 days after warning letter, or if design or construction is remediated if approval exists.	2.27 Use: fines waived if Town of Flower Mound certifies no commercial or industrial use.  Others: no waiver	No waiver