

***Tanoan Community East
Subdivision
Rules***

Revised June 20, 2013

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INTRODUCTION

These *Subdivision Rules* were adopted on July 7, 1984 and revised by resolution of the Board of Directors of the Tanoan Community East Association (TCEA), Inc., herein also referred to as "TCEA," "Tanoan East," and the "Association". The *Subdivision Rules* as initially adopted and all subsequent revisions were developed pursuant to the *Tanoan Community East Master Restrictions*, Section 7.08 and the *Tanoan Community East By-Laws*, Article VIII, Section 2(b), and shall prescribe the following:

- A. Rules governing the use of all Tanoan East common areas and community roadways by all Tanoan East residents (owners, tenants, and guests).
- B. Rights and authorities of the Association to impose late fees and other penalties for delinquent maintenance assessments and to impose penalty assessments, penalty citations, and any other authorized penalties in the event that any of these rules are violated.
- C. Procedures for appealing a rules violation citation or penalty assessment.
- D. Rules and procedures for controlling community access.
- E. Rules and responsibilities of the Planning and Architectural Committee and the attendant responsibilities of all Tanoan East residents.
- F. Procedures regarding matters of non-compliance with these *Subdivision Rules*.

NOTE: These *Subdivision Rules* and the procedures contained herein are intended as a supplement to, and are subject to the provisions of, the Tanoan Community East Association, Inc. *Master Restrictions, Articles of Incorporation, By-Laws and Planning Committee Rules*. These *Subdivision Rules* shall be enforced in conformity with the above list of governing documents. If there is any conflict between the *Subdivision Rules* and the above listed governing documents, the above listed governing documents shall rule, with the *Subdivision Rules* remaining in subjugation to all of these governing documents.

SECTION I DEFINITIONS

The definitions contained in the Tanoan Community East Association, Inc. *Master Restrictions*, Article I are incorporated herein by reference. Unless the content otherwise specifies or requires, the terms defined herein for the purpose of these *Subdivision Rules* have the meanings as follows:

- A. **Association:** The Tanoan Community East Association, Inc. (TCEA), a non-profit New Mexico corporation, and any predecessor or successor incorporated or unincorporated association, as set forth in the Tanoan Community East Association *Master Restrictions*, Article 7.
- B. **Bicycle:** Every pedal-powered device propelled by human power upon which one or more persons may ride.
- C. **Citation:** An official summons, or "ticket," issued by any TCEA Community Patrol officer or employee for violation of these *Subdivision Rules*. All such citations shall impose a penalty assessment.
- D. **Community Patrol Officer:** A person employed and retained by the Association and vested with the responsibility and authority of enforcing these *Subdivision Rules*.
- E. **Community Roadway:** Any area, including any roadway, street or alley, owned by the Association, over which there is granted the right of vehicular access.
- F. **Crosswalk:** That part of the roadway, an intersection included within the prolongation or connection of the lateral lines of the sidewalks on opposite sides of the roadway measured from the curbs, or in the absence of curbs, from the edges of the transverse roadway. Any portion of a roadway, at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- G. **Delinquent Payment:** A maintenance assessment or penalty assessment not received by TCEA within the required time period, as defined in letters L and T, respectively, of this section. For maintenance assessments, a payment is considered delinquent if not received by 5:00 PM on the first (1st) day of each month. For penalty assessments, a payment is considered delinquent if not received by 5:00 PM on the thirtieth day after the date of the violation notice letter.
- H. **Excessive Speed:** A vehicle on a community street or roadway traveling in excess of the lawfully posted speed limit of 20 miles per hour or as displayed by posted signs in work sites.
- I. **Guest:** Anyone entering the property at the request of a resident (owner or tenant) or to visit a resident (owner or tenant) for any purpose.

- J. **Intersection:** The area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways which join one another at, or approximately at, right angles or the area within which vehicles travel upon different roadways joining at any other angle may come in conflict.
- K. **Late Charge:** A special surcharge of 10 percent (10%) applicable to delinquent assessments of any kind.
- L. **Maintenance Assessments:** The monthly assessments that constitute each lot owner or owners' (proportionate to the voting rights) pro-rata share of the normal costs and operating expenses incurred by the Association during each fiscal year. Maintenance assessments shall be a charge against the land and shall be a continuing lien upon the lot or project against which each such assessment is made, and shall also be the personal obligation of the owner or owners of such property on the assessment due date.
- M. **Motorist:** Any person who drives or is in actual physical control of a motor vehicle. Any person operating a licensed motor vehicle must be duly licensed by the State of New Mexico or some other legal jurisdiction.
- N. **Motor Vehicle:** Every vehicle which is self-propelled by an internal combustion engine or electric motor power, including but not limited to automobiles, motorcycles, golf carts and/or scooters, dirt bikes, go-carts, all terrain vehicles, etc.
- O. **Negligent Driving:** Any person who drives a vehicle carelessly and heedlessly in disregard of the rights or safety of others, and without due caution and circumspection, and at a speed, or in a manner so as to endanger or likely to endanger any person or property is guilty of "negligent driving."
- P. **Nuisance:** Nuisance is defined as "the unwarranted and/or unlawful use of property or personal and animal actions, which causes inconvenience or damage to others, either to individuals and/or to the general public. Under the common law, persons in possession of real property are entitled to the quiet enjoyment of their lands. A public nuisance is an unreasonable interference with the public's right to property. It includes conduct that interferes with public health, safety, peace, or convenience. The unreasonableness may be evidenced by statute, or by the nature of the act, including how long, and how bad, the effects of the activity may be.
- Q. **Owner:** Any person or persons legally holding the beneficial ownership of the fee (including the purchaser under a contract of sale of real property within Tanoan East, and excluding persons holding only a security interest).
- R. **Park or Parking:** The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaging in loading or unloading.

- S. **Pedestrian:** Any person afoot.
- T. **Penalty Assessment:** Assessments imposed for violation of these *Subdivision Rules*, or any other governing document of the Association, pursuant to the procedures established by the Board of Directors from time to time. Such assessments shall be those punitive in nature and may be imposed without regard to whether or not monies have been expended by the Association as a result of such violation. Notice of the intent of the Board of Directors to impose such assessments, provisions for hearing and appeal shall be established by the Board of Directors.
- U. **Resident:** Any person (either owner, tenant, or guest) residing, permanently or temporarily, within the Tanoan East Community. Any resident is subject to these *Subdivision Rules*.
- V. **Resident in Good Standing:** Any resident whose financial obligations to the Association are fully paid and up to date. This includes, but is not limited to, the absence of delinquent maintenance assessments, late charges, interest, and citation penalty assessments.
- W. **Right-of-Way:** As between two or more vehicles, bicycles or pedestrians, the privilege of the immediate use of the roadway.
- X. **Sidewalk:** The concrete walkway lateral to the roadway and the adjacent property, intended for the use of pedestrians.
- Y. **Traffic Control Devices:** All signs, signals, markings and devices placed or erected by authority of the Association for the purpose of regulating, warning or guiding traffic.
- Z. **Traffic Control Signal:** Any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and then to proceed.
- AA. **Unattended Vehicle:** Any vehicle which is unattended, because the driver cannot be accounted for, is not in the necessary condition to drive the vehicle , or is unavailable to observe the vehicle at all times.

SECTION II ASSOCIATION AUTHORITY

Except where the jurisdiction over the community roadways has been pre-empted by the City of Albuquerque, the Association shall have the following authority:

- A. To place and maintain traffic control signs, signals and devices.
- B. To determine speed limits.
- C. To place speed bumps and speed humps to control vehicle speeds.
- D. To mark traffic lanes.
- E. To establish no lane changing zones.
- F. To establish no passing zones.
- G. To place turning markers.
- H. To place restricted turn signs.
- I. To place load restrictions, prohibit commercial vehicles or through traffic, and restrict the movement of traffic to one way on certain roadways.
- J. To designate intersections where a stop or stopping is required.
- K. To erect "stop" and/or "yield" signs.
- L. To designate school crossings.
- M. To designate crosswalks.
- N. To designate foot, bicycle, and golf cart paths; lanes; and streets.
- O. To restrict or prohibit stopping, standing, storage, or parking.
- P. To erect signs on one-way roadways.
- Q. To retain community patrol officers for enforcement of rules.
- R. To use and maintain speed monitoring equipment.
- S. To do anything, within the guidelines of the *Master Restrictions* that is legally necessary to protect the health and welfare of the community and its residents.
- T. To issue citations/penalty assessments for violations of any of these *Subdivision Rules*.
- U. To establish appropriate monetary fines for violations of these *Subdivision Rules*.
- V. To control, operate and maintain the automated gate access system.
- W. To monitor illegal use of motor vehicles by unlicensed drivers.

SECTION III MAINTENANCE ASSESSMENTS and PENALTIES FOR DELINQUENT/OVERDUE PAYMENTS (*DELINQUENCY POLICY*)

The By-Laws of the Tanoan Community East Association Inc. grants power to the Board of Directors to govern the affairs of the Association. Prompt payment of assessments by all Owners is critical to the financial health of the Association. Therefore, in accordance with Tanoan Community East Association's Governing Documents, the Tanoan Community East Board of Directors is adopting the following Delinquency Policy.

- A. **Amounts Payable to the Association.** Amounts payable to the Association include, but are not limited to, regular monthly assessments, special assessments, enforcement assessments, and legal fees and costs associated with collection of funds on behalf of the Association.
- B. **Assessment Payment Schedule.**
 - 1. **Regular Monthly Assessments.** Regular monthly assessments are due and payable on the first day of each month. Homeowners may pay by the quarter, or any period over one month in advance. Pre-payments will be credited to the homeowner's account. A courtesy billing statement is sent each month to the billing address on record with the Association. However, it is the Owner's responsibility to pay each assessment in full every month regardless of the receipt of a statement.
 - 2. **Other Assessments.** Any other assessments are due and payable on the date specified by the Board; such date will be no less than thirty (30) days after the date of notice of such assessment.
- C. **Late Fees.** The Association shall assess a late fee of \$20.00 per month on each Owner who fails to pay any assessment within fifteen (15) days of the due date. The late fee will be assessed on the sixteenth (16th) day of the month for any month that an Owner does not pay the current monthly assessment. In addition, if the assessment balance remains unpaid after thirty (30) days, a 12% annual (1% monthly) interest fee will be added on unpaid assessments only.
- D. **Suspension of Rights.** Once an Owner is thirty (30) days delinquent in assessments, the Board will suspend the Owner's rights of membership, including the right to vote, the right to participate in Association affairs, and/or the right to use and enjoy the Common Facilities by the delinquent Owner and his or her, or its officers, employees, Tenants, guests, and invitees.
- E. **Order of Crediting Payments.** Payments received shall be first applied to assessments owed, then to hard costs including attorney fees and collection

expenses, then to fines and late fees.

- F. **Collection Process.** For all balances exceeding twenty dollars (\$20.00), that are fifteen (15) days past due, the following notification process applies.
1. **First Late Notice.** A First Late Notice will be sent by the Association Manager, by regular mail, to an Owner whose balance is fifteen (15) days past due. The First Late Notice will detail assessments, late fees, and any other charges due.
 2. **Second Late Notice.** A Second Late Notice will be sent by the Association Manager, by regular mail, to an Owner whose balance is forty-five (45) days past due. The Second Late Notice will detail assessments, late fees, and any other charges due. The Second Late notice will also inform the Owner that their rights of membership have been suspended and will remind the Owner that they have the option of entering into a payment plan with the Association.
 3. **Demand Letter.** A Demand Letter will be sent by the Association Manager, by regular mail and certified mail, return receipt requested, to an Owner whose balance is seventy-five (75) days past due. The Demand will detail assessments, late fees, any other charges due, and will inform the Owner of the Association's intent to file a notice of lien if payment is not received within thirty (30) days. A fee is added to the Owner's account for processing this letter.
 4. **Filing Notice of Lien.** If payment has not been received after one hundred five (105) days, the Association's attorney will file a Notice of Lien with the Bernalillo County Clerk, will send a copy of the Notice to the delinquent Owner, and if desired, provide a notice of delinquency to the Owner's first mortgagee (if any and if known). If an Owner brings their account current, a Release of Lien will be filed with the Bernalillo County Clerk in a timely manner. A fee is added to the Owner's account for filing and releasing the lien.
 5. **Intent to Collect.** If payment has not been received after one hundred and thirty-five (135) days the Association's Manager will send an Intent to Collect letter to the delinquent Owner. This Intent to Collect letter will be sent by regular mail and certified mail, return receipt requested, and will remind the Owner that a Notice of Lien has been filed and will give the Owner ten (10) days to become current or to agree to a written payment plan with the Association or the Association will turn the delinquent account to a Collection Agency. A fee is added to the Owner's account for this step of the collection process.
 6. **Further Action.** If after filing of the Notice of Lien, the assessment remains unpaid and delinquent, the Association will decide, on a case-by-case basis,

and in consultation with the Association's attorney, whether to pursue additional remedies.

- G. **Payment Plan.** Once an account is thirty (30) days delinquent, an Owner can enter into a written payment plan with the Association. Any Owner interested in entering into a payment plan should contact the Association's Manager.
- H. **Administrative Costs.** All costs incurred by the Association relating to an attempt to collect a delinquent amount, such as demand letters, registered and certified mailing fees, collection agency expenses, and other reasonable fees, shall be charged to the Owner's account.
- I. **Legal Services.** If a delinquent account is referred to the Association's attorney for collection, the Owner shall be charged the Association's reasonable attorney fees and related costs.

SECTION IV CITATION/PENALTY ASSESSMENT PROCEDURES

NOTE: Owners are ultimately responsible for the actions of family members, tenants and guests who they permit to enter Tanoan East or occupy any property within Tanoan East. Owners are strongly advised to provide such individuals with copies of these *Subdivision Rules* and inform them of the potential penalties and assessments that could result from violation of *Subdivision Rules*. Once a resident (owner, family member, tenant), or guest of such, has received a citation or penalty assessment for a specific violation of these *Subdivision Rules*, or any other governing document of the Association, the following procedures will be followed:

- A. The resident, tenant, or resident's guest shall receive a copy of a citation or penalty assessment in any of the following ways: in person directly from a TCEA employee or Board member, through the U.S. mail addressed to the resident, or on the windshield of an offending vehicle.
- B. The driver of an offending vehicle need not be stopped in order for a citation or penalty assessment to be issued, should circumstances prevent a TCEA employee from doing so. Additionally, if a citation or penalty assessment is issued to a guest of a resident, it will be mailed in the U.S. mail to that resident and charged to the homeowner.
- C. A formal letter notifying the resident or his guest of his/her violation of these *Subdivision Rules* and the resulting citation or penalty assessment will be posted to the resident via first class U.S. mail. This notification may or may not contain a copy of the actual citation and will contain specific information as to the rights of the violator, to include:
 - 1) The violator shall have ten (10) calendar days in which to request an appeal hearing before the Board of Directors. See Section XV. The request must be made within the ten (10) day time period following the date on the notification letter.
 - 2) If no appeal has been requested within the above noted ten (10) day period, the resident's right of appeal is automatically withdrawn.
 - 3) The citation or penalty assessment, if not appealed, is due and payable within thirty (30) calendar days of the date of the notification letter. If payment is not received in the Association office by the due date, the citation or penalty assessment is considered delinquent.

NOTE: By legal precedence, any correspondence posted in the U.S. mail is presumed to have been delivered within 72 hours. Reference the TCEA *Master Restrictions* Article/Section 13.08. A resident's contention that he/she did not receive the formal notification letter shall not constitute a valid reason for

waiving or extending the ten (10) calendar day right of appeal provision, nor, in any way, relieves the resident of the responsibility for payment of the applicable citation or penalty assessment (fine) as set forth in Section XIV.

- D. If payment of the citation or penalty assessment has not been received by the Association within fifteen (15) calendar days from the due date (date of delinquency), the Association may assess a ten percent (10%) late charge on the citation/penalty assessment, as described in the TCEA *Master Restrictions*, Article/Section 8.12.
- E. Further, if payment of the citation or penalty assessment has not been received by the Association within fifteen (15) calendar days from the due date (date of delinquency), all gate access cards and/or remote gate openers issued to the resident may be deactivated by TCEA management. These gate access cards and/or remote gate openers will be reactivated once the citation or penalty assessment is paid in full.
- F. Further, if payment of a citation or penalty assessment has not been received by the Association within thirty (30) calendar days from the due date (date of delinquency), the penalty assessment shall bear interest at the rate of one percent (1%) per month. See TCEA *Master Restrictions*, Article/Section 8.12.
- G. Further, if payment of the citation or penalty assessment has not been received by the Association within thirty (30) calendar days following the due date (date of delinquency), TCEA management may post to the resident, by First Class Mail or by Certified Mail, a notice of intent to file a lien against the resident's property if the delinquent assessment has not been paid by the forty-fifth (45th) day following the due date (date of delinquency). In the event that the resident is not the owner of the property (i.e., a tenant or guest), notice of the penalty assessment and delinquency shall also be mailed to the address of the owner of record within TCEA files. Additionally, further penalties may be incurred by a resident and/or guest if payment of a citation/ penalty assessment is not received by the Association by the 45th day following the due date (date of delinquency).
- H. Further, on the forty-fifth (45th) calendar day following the due date (date of delinquency), unless the citation or penalty assessment has been paid, a lien may be filed with the Bernalillo County Real Estate Records to recover the amount of the citation or penalty assessment, late charges, interest, filing fees and attorney's fees.
- I. Further, The Association may levy a penalty assessment for violation of these *Subdivision Rules*, or any other governing document of the Association, pursuant to the procedures established from time to time by the Board of Directors. Such assessments shall be those punitive in nature and may be imposed without regard to whether or not monies have been expended by the Association as a result of such violation. Notice of the intent of the Board of Directors to impose such assessments, as well as provisions for an appeal, shall be established by the Board of Directors. See TCEA *Master Restrictions*, Article/Section 8.06.
- J. Further, the Association may levy a special assessment against any resident if

monies are spent from the Association's operating fund (e.g., on attorney fees, filing fees, process service fees, etc.) as a result of the acts of the resident, his family, invitees, or tenants, or their failure or refusal to act in regard to compliance with the *Master Restrictions* and/or these *Subdivision Rules* (see *Master Restrictions* Article 8.05).

SECTION V COMMUNITY ACCESS

Tanoan East is a gated, controlled and limited-access community. The following procedures will be rigidly adhered to in granting access to any person or vehicle desiring to enter the community.

A. All Residents

1. **Vehicle Registration.** All Tanoan East residents must register all of their motor vehicles with the TCEA Security Supervisor and, in turn, will be issued a Tanoan East decal for each vehicle. Residents must display the Tanoan East decal on every registered/owned vehicle either permanently affixed to the front windshield in the lower left corner, or positioned on the dashboard so as to be readily visible to any TCEA Community Patrol officer. These decals are non-transferable between vehicles owned by a given resident or between residents. When a vehicle bearing a Tanoan East decal is sold or otherwise disposed of, the decal must be removed and surrendered to the TCEA Association Manager or to a TCEA Community Patrol officer.
2. **Gate Automation.** The Tanoan East gate access system is a computer-based system which allows residents to pass through the resident lane of the Country Club entrance and both lanes of the Lowell Street entrance. The Lowell Street entrance is, for the most part, not attended by a TCEA Community Patrol officer, and must be accessed with a remote gate opener, a gate access card, or a gate access code assigned to residents wishing such a code. Residents must contact TCEA Association Manager to obtain or employ any of these access modes.
3. **Guests.** Guests are admitted to TCEA at the Country Club entrance after providing the Community Patrol officer the guest's name and the name of the resident being visited. The Community Patrol officer shall record this information, along with the time of entry and the license plate of the guest's vehicle. Guests may gain entry through the Lowell Street entrance using a call box containing a directory of residents wishing to be listed in such a directory. The call box allows the guest to call the resident's phone and allows the resident to open the gates remotely through that phone.

NOTE: By permitting access of a visitor into the community, either via the Lowell call box or by providing the guest his access code, the resident assumes full and complete responsibility for the conduct and actions of that visitor (with respect to compliance with these *Subdivision Rules* while he/she is within the community boundaries.

- ### **B. Residents In Good Standing.** All such residents are required to pay a usage

fee to obtain a remote gate opener and/or gate access card device. These devices remain the exclusive property of the Association and are provided for the convenience and benefit of only residents in good standing.

1. Usage Fees.

- a) Remote Gate Opener: \$40.00 each, of which \$15.00 will be refunded if it is returned to the Association in clean, good operating condition. If damaged or inoperative, no refund will be provided.
- b) Gate Access Card: \$10.00 each. No refund will be provided. If a card becomes damaged or inoperative, a new card can be purchased for a charge of \$10.00.

2. Responsibilities of the Resident:

- a) Agree to pay the applicable usage fees at the time any devices are issued.
- b) Agree to be solely responsible for all devices issued.
- c) Agree that all issued devices will be used only by those individuals that the devices were issued to, and as recorded in the TCEA records at the time of purchase.
- d) Fully understand that the benefits and privileges of using a device may be cancelled at any time for cause. Such cases may include, but are not limited to, violations of the TCEA *Master Restrictions*, these *Subdivision Rules, By-Laws, and Planning Committee Rules*; allowing unauthorized access; or failure to pay overdue maintenance assessments or citation penalty assessments (fines).
- e) Agree to immediately report the loss or theft of any issued device to the TCEA management or security personnel. Also agree that until such report is made, the resident remains responsible for the device.
- f) Fully understand that all issued devices, codes, and decals are non-transferable between residents or between owners and tenants.
- g) Fully understand that upon the sale of or physical move from a Tanoan East property, all issued devices and codes for that property will be deactivated.
- h) New residents must contact Tanoan East Management and complete a confidential information form which, among other things, will detail who is to be living at the home of the new owner or resident, the description of vehicles belonging to them, and acknowledgment of receipt of Tanoan East governing documents, including these *Subdivision Rules*. Upon receipt of the completed form, Tanoan East Management shall reactivate any entry devices that may have been

transferred by the former owner or resident or will issue new devices as described in Section B above.

C. Residents Not in Good Standing

1. Such residents will not be issued any remote gate opener or gate access card devices until they are returned to a status of good standing.
2. All such residents are required to use the visitors only (west) entrance lane at the Country Club Gate and may not use the Lowell Gate.

D. Contractors

1. All contractors and workmen will enter, be stopped and challenged at the Country Club Gate. If access is granted, each will be issued a contractor's pass which will be color-coded, numbered and good for six (6) days only (i.e., a specific color code denotes a specific Monday through Saturday period).
2. This pass must be clearly displayed on the dashboard of the contractor's vehicle. A copy of each pass will be retained by the gate attendant for record purposes.
3. Each resident is cautioned that if he/she is expecting workmen, repairmen, cleaning persons, etc. at their residence, it will expedite the access process and minimize the inconvenience to these individuals if the resident calls ahead to the Country Club entrance and informs the gate attendant whom they are expecting and authorizes their access into the community in advance of their arrival.

E. Emergency Vehicles. Emergency vehicles will not be stopped or challenged upon entering the community. Special arrangements have been made with all appropriate emergency service organizations through the City of Albuquerque that permit unimpeded access through both the Country Club and Lowell gates.

F. Parties, Open Houses and Special Gatherings: The TCEA management office has made special arrangements and provisions to accommodate visitor access for these occasions. Please contact the office to secure a copy of the guidelines for hosting a large gathering at your residence. These guidelines detail the provisions for community access and also resident responsibilities.

G. Garage Sales/Estate Sales

1. **Garage Sales:** Public garage sales are not allowed in Tanoan, and visitor access will not be granted for such sales. Public garage sales are defined as the sale of personally owned items, publicly advertised or not, held on

private and/or common ground, and open to the general public.

2. Estate Sales: Exceptions to the above rule are made for estate sales, which are defined as the total liquidation of all household goods, if such sales are previously approved by the TCEA management and follow the established rules of the Association for such estate sales, which are available in the Association office.
3. Sale of Specific and Limited Household Items: The sale of specific and limited household items or automobiles, etc. may be held at the discretion of each homeowner by public advertisement listing the telephone number of the resident only. No public advertisement is allowed which contains the resident's address meant for the general public's response. Interested buyers can respond to any number as advertised, and make an appointment with the resident to view the specific items as advertised. Prior to the appointment time, each resident should advise the Country Club Gate personnel of the expected visitor.

SECTION VI PLANNING COMMITTEE RULES

The following briefly outlines the responsibilities, authority and rules of the Tanoan Community East Association Planning Committee (commonly known as "The Planning Committee") and, in turn, the attendant responsibilities of each Tanoan resident.

Please refer to the TCEA *Master Restrictions*, Articles 3, 4, 5, and 6 for a complete description of responsibilities and rules of compliance. In addition, the Association Manager maintains a current copy of the *Planning Committee Rules* in the TCEA Office, which is available for review and inspection by any resident. Further, the Association Manager serves as the Secretary of the Planning Committee and can provide assistance in interpreting these *Planning Committee Rules*.

A. Planning Committee Duties, Responsibilities and Authority

1. The Planning Committee is a permanent, standing committee of the Tanoan Community East Association, under the direction of the Board of Directors.
2. The Planning Committee is responsible for:
 - a) Adopting, amending and repealing all construction and landscaping rules, regulations and standards for the Tanoan East community. These are known as "*The Planning Committee Rules*." The authority of the Planning Committee encompasses the entire Tanoan community, including all common areas, roadways, and all individual residential lots, whether developed, improved or vacant.
 - b) Applying and enforcing the *Planning Committee Rules* upon the TCE Association in general and upon all individual Tanoan East residents.
 - c) Reviewing and approving all proposed building, construction and landscaping project plans, drawings and specifications submitted by the Association and by individual residents, including but not limited to:
 - (1) Changes to Association common areas and roadways.
 - (2) Changes to residential lots: All new construction, or reconstruction of existing improvements or structures, to include the recoloring, refinishing, alteration, or landscaping of any part of the exterior of any improvement.
 - d) Inspecting and approving on-site "as-built" changes (i.e., after all construction, reconstruction, landscaping, re-landscaping, etc. has been completed), to insure full and final compliance of the *Planning Committee Rules* and all plans, drawings and specifications originally approved by the Committee.

- e) Formally notifying the resident of the Committee's specific findings. For example, when the Committee inspects the job site after construction, reconstruction, etc., and determines that the project is, in whole or in part, unsatisfactory and not in compliance, the Committee shall precisely specify, in writing, to the resident the item or items of non-compliance and the minimum required remedies to bring the job site or project into full compliance.

NOTE: The Committee must notify the resident within 60 days of all conditions of non-compliance; otherwise, the resident shall assume that the improvement was completed in accordance with the *Planning Committee Rules* and the approved plans.

B. Responsibilities of Residents

1. Any resident (or residential home builder or contractor) considering or proposing to construct or reconstruct improvements (including landscaping or relandscaping) or structures, or to recolor, refinish, or alter any part of the exterior of any home, building, driveway, fence or improvement, or to perform any work specified in the *Planning Committee Rules*, shall first apply to the Planning Committee for approval before initiation of any work at the job site.

NOTE: Any such resident should make every effort to: (a) consult the Association Manager for advice and counsel, and (b) carefully review the *Planning Committee Rules* available in the TCEA management office.

2. The resident fully understands that the Planning Committee process is separate and distinct from the resident's requirement to obtain any and all permits (if required) from the City of Albuquerque.
3. The resident shall provide to the Planning Committee, for its review and approval, two copies of all plans, a notification of an estimated completion date, and drawings and specifications. Once approved by the Committee, one set bearing the official approval and endorsement of the Committee will be kept in a permanent file in the Association office.
4. Depending on the type and complexity of construction, the resident may also be required to provide one or more of the following items: (a) floor plans (b) colors and samples of exterior materials and colors (c) precise specifications and dimensions (d) architectural building plans (e) wall sections (f) exterior elevations (g) roof plans (h) landscaping plans (i) graphics and exterior furnishings (j) proposed construction schedule and (k) drainage reports.
5. The resident agrees to fully comply with the "as-built" (after construction) findings of the Committee. If formally notified by the Committee that one or more items are not in full compliance with the approved plans and the *Planning Committee Rules*, the resident shall make all necessary remedies to bring all items into full compliance.

C. LANDSCAPE REQUIREMENTS

Any homeowner of Tanoan Community East considering or proposing to landscape or change the landscape of their property, shall first apply to the Architectural Planning Committee (APC) for approval before commencement of any work. Any proposed landscape work shall be in conformance with the following regulations.

1. Front Yards:

- a) A minimum of 25% of the plantable area of the front yard, to include a corner lot, shall be natural grass. Approved grasses are bluegrass, fescue and Albuquerque Mix. Artificial grass is specifically prohibited.
- b) The plantable area consists of the entire front yard, minus the actual driveway and the sidewalk adjacent to the curb. The front yard is defined by the City as, "That part of a lot between the front lot line and the front facades of the principal building on the lot, and extended out to both side lot lines." It is important to note that any areas such as tree wells, mailbox structures, other non-turf planted areas, the walkway from the driveway to the front or side doors, etc, are included in the total plantable area of the front yard. The Planning Committee may consider excluding walled courtyard areas from the plantable area on a case by case basis. A sample calculation of plantable area is available for download at www.tanoaneastnews.com or in hard copy from the Community Association Manager.
- c) The use of no fewer than one (1) deciduous or evergreen shade tree of no less than two inches (2") caliper is required in each front yard landscaping plan, except corner lots.

2. Corner Lot Side Yards: Side yards abutting the street shall all be subject to the same rules as applied to front yards except that corner lots must use no less than a total of two (2) trees of at least two-inch (2") caliper in the combined front and side yards.
3. Back Yards with Street Frontage: Back yards with street frontage (where lot extends fully between two streets) shall be subject to the same rules as front yards, except for the tree requirement. In other words, only the front yard tree is required.
4. Golf Course Lots: Landscaping of Golf Course Lots shall be consistent with planting in front and side yards, except for turf requirement.

D. XERISCAPE GUIDELINES AND REQUIREMENTS

1. Homeowner should consult the City of Albuquerque "How To Guide to Xeriscaping" for planning guidance. This guide was developed to promote water conservation. Plants/trees prohibited on the City of Albuquerque plant list may not be installed in Tanoan Community East. This document is available from the City of Albuquerque or the Community Association Manager.
2. In addition to the plants/trees prohibited by the City, the following plant materials MAY NOT be used in landscape designs submitted in Tanoan East: Chamisa, Cactus, and Apache Plume.
3. All new plants shall be selected from the Water Utility's Albuquerque Plant List, which is available for download at www.tanoaneastnews.com or in hard copy from the Community Association manager. It is also contained within the above-referenced "How-To Guide."
4. Plants must cover at least 50% of the xeriscaped area, as they will appear at maturity – not at installation. Select plants from the guide and plant list and use the mature plant area noted in the list. This area is indicated as "Rebate Allowance" and is listed in square feet of coverage. Existing plants may be incorporated into the design and contribute to coverage, provided they are on the approved plant list. The APC recognizes the importance of trees by allowing a coverage area for approved trees. Tree coverage is listed in the plant list, but may contribute no more than 50% of the total plant coverage area.
5. Spray irrigation is strongly discouraged in the xeriscaped area. Instead, use drip, soaker, or bubbler irrigation systems. Existing sprinklers may be converted to a drip system, although we recommend zoning these xeriscape areas separately. All irrigation systems must have an approved backflow prevention device per City requirements.
6. Rain collection barrels are allowed, but must be located such that they are concealed from view.
7. Non-turf areas can contain a variety of flagstone, boulders, mulch and other natural materials. Soil between and beneath the plants must be covered with a minimum of 2 inches of mulch (3 to 4 inches is recommended). Common mulches are gravel or decomposed granite, but other materials may be proposed. Santa Fe Brown gravel is recommended. Impervious plastic beneath the mulch is not recommended, unless it is part of a water harvesting design. Concrete surfaces should be limited to driveways and sidewalks only.

E. MAINTENANCE REQUIREMENTS

1. All dead vegetation, including trees, shall be removed with thirty (30) days after plant dies.
2. All grass, mass plantings and other plantings shall be mowed, trimmed and cut as necessary to maintain a neat and attractive manner.
3. All weeds and noxious plants shall be removed immediately from yards and sidewalk areas.
4. All approved landscape modifications must be maintained in a condition as-approved by the Planning Committee.

F. LANDSCAPE MODIFICATION SUBMITTAL REQUIREMENTS

Landscape modifications will not be considered for approval unless all of the following items are submitted in a clear, understandable manner.

1. Completed Planning Committee forms including signatures of adjacent property owners. This typically means houses on either side and directly across the street if occupants of that property have a direct view of your proposed modification.
2. If turf is affected by modifications, submittal must include a diagram and calculation of the plantable area and remaining turf area to show compliance with the minimum turf areas requirement.
3. Xeriscape areas shall be fully defined by means of a landscape plan, drawn to scale, indicating all plants and other features. This plan shall be accompanied by a plant list and calculation showing compliance with minimum plant coverage requirement.
4. Landscape modification forms for submittal to the Architectural Planning Committee are available on the Association's website at www.tanoaneastnews.com or from the Management Company. Completed request forms should be mailed to:

Tanoan Community East Association Inc.
P.O. Box 67590
Albuquerque, New Mexico 87193-7590
5. There is no fee for application or review of minor landscape modifications. An application fee may be assessed for major landscape modification requests. The purpose of such fee is to cover the cost of a landscape architect to inspect and certify the project upon completion that the modifications were installed as submitted and approved by the Committee.

6. The Planning Committee reviews submittals on an as-submitted basis, but reviews sometimes take several weeks. Therefore, plan to have your application submitted at least a month before you plan to start work. The Homeowner will receive a verbal response within 24-hours following the Planning Committee decision with a written follow-up within ten (10) business days.

NOTE: Any resident, who knowingly or unknowingly, circumvents the *Master Restrictions*, these *Subdivision Rules*, and/or the *Planning Committee Rules*, remains fully responsible and liable for those actions. If, for example, the Planning Committee "discovers" any project, during or after construction, and determines that the resident has proceeded and/or completed the project without the full approval of the Committee (before and/or after construction), then the resident must fully and clearly understand that the project may have to be re-accomplished, in whole or in part, so that it fully satisfies all specified requirements of the *Master Restrictions*, these *Subdivision Rules*, and/or the *Planning Committee Rules*. Additionally, in accordance with Section XIV, a penalty assessment shall be assessed by the Board to any resident for failure to get Planning Committee approval prior to beginning a project.

Further, if a resident is found to be in non-compliance with *any* Planning Committee Rule , the Planning Committee may, at its discretion, recommend that the Board of Directors issue a penalty assessment to the resident for non-compliance, which shall be punitive in nature and may be imposed without regard to whether or not monies were expended by the Association as a result of such violation (see *Master Restrictions* Article 8.06). Additionally, the Association may levy a special assessment against any resident if monies are spent from the Association's operating fund (i.e. on attorney fees, etc.) as a result of the acts of the resident, his family, invitees, or tenants, or their failure or refusal to act in regard to compliance with the *Master Restrictions*, these *Community Rules*, and/or the *Planning Committee Rules* (see *Master Restrictions* Article 8.05).

SECTION VII VEHICULAR TRAFFIC RULES

The following rules shall govern the use of all community roadways, bikeways, pedestrian ways and common areas on which motorized vehicular traffic is permitted:

- A. No person shall drive, operate, or be in actual physical control of any motor vehicle while such person is under the influence of intoxicating alcohol or of a drug to a degree which impairs his/her ability, either mentally or physically or both, to operate such motor vehicle.
- B. No person shall drive carelessly.
- C. No driver of a motor vehicle shall fail or refuse to bring his/her vehicle to a complete stop or shall otherwise flee or attempt to elude a TCEA community patrol officer when given a visual or audible signal to stop, whether the signal is hand, voice, emergency light, flashing light, siren or other signal.
- D. The driver of a vehicle approaching or entering an intersection shall yield the right of way to a vehicle which has previously entered the intersection from a different roadway.
- E. The driver of a vehicle approaching an intersection clearly marked with a stop sign shall bring his/her vehicle to a complete stop. "Rolling stops" shall be considered violations of this rule.
- F. Upon all roadways of sufficient width, vehicles shall be driven upon the right half of the roadway.
- G. No person shall park a vehicle upon or within a sidewalk area that will partially or fully block a driveway.
- H. Where there is a temporary need for a ramp up a curb to allow vehicular traffic to cross the curb at that point (e.g. construction vehicles), appropriate material (i.e., gravel, dirt sand or a ramp) can be used, provided it is promptly removed when no longer needed.
- I. No occupant of a car or golf cart, and no, bicyclist, pedestrian, or any other person on a roadway or sidewalk shall dispose of or discard litter or refuse on any roadway, sidewalk, common area or private residential lot in any manner.
- J. No person shall place, abandon or otherwise permit to remain on a roadway any machinery, equipment, material or object which could obstruct or impede traffic.
- K. No person shall drive a motor vehicle on a roadway at a speed in excess of 20 miles per hour or, if it is different, the lawfully posted speed limit.
- L. The driver of any vehicle shall obey the instructions of any traffic control device or signal applicable thereto and placed in accordance with these *Subdivision Rules*. These traffic control devices and signals shall have the meaning as set forth in the

Traffic Control Legend of the City of Albuquerque Traffic Code, as amended, which is incorporated herein by reference.

- M. No person shall drive a licensed vehicle within the confines of the Tanoan East community without a valid driver's license.
- N. Golf carts must be driven by a licensed driver only.
- O. No person, child or adult, shall create a nuisance for any TCEA resident due to unsafe, reckless and/or too-loud behavior as a motorist, pedestrian, golf cart driver, bicyclist, or while on self-propelled items such as skateboards and scooters. Any incident of this nature shall be reported to the Tanoan Community East Association office immediately for action to be determined by the Association Manager, a Community Patrol Supervisor, or, if necessary, the Board of Directors.

SECTION VIII VEHICULAR PARKING RULES

The following rules govern the parking or storage of motor vehicles within the Tanoan community:

- A. No person shall stop, park or store a motor vehicle in any of the following locations, except: (a) when necessary to avoid conflict with other traffic, (b) to temporarily load or unload, (c) when necessary to comply with these *Subdivision Rules*, or (d) at the direction of a TCEA Community Patrol employee or a traffic control device/sign or signal.
 1. Next to a curb which is painted either red or yellow.
 2. Blocking a sidewalk or preventing use of the sidewalk by pedestrians. At least two feet (2') of sidewalk shall remain passable for pedestrian traffic.
 3. Within three feet (3') of a public or private driveway.
 4. Within an intersection.
 5. Within fifteen feet (15') of a fire hydrant.
 6. Within fifteen feet (15') of an intersection or any stop sign, yield sign or traffic control device or signal located at the side of a roadway.
 7. On the roadway side of any vehicle stopped or parked at the edge of a roadway.
 8. Between the curb or edge of the roadway and the sidewalk.
 9. Where posted "No Parking".
 10. On a roadway other than parallel with the curb or edge of the roadway headed in the direction of lawful traffic movement (i.e., parking on the wrong side of a roadway is prohibited).
- B. No person shall park or store a vehicle at any time adjacent to a roadway circle.
- C. No person shall park or store a vehicle next to the curb, on a circle, or on any roadway of the community overnight. Community Patrol will consider violation enforcement at any time between 2:00 AM and 6:00 AM, unless prior arrangements have been made with the Association Manager or Community Patrol Supervisor (or, if after hours, with the gate attendant at the Country Club entrance). NOTE: A resident may not call back day after day to request a waiver for multiple days.
- D. There shall be no open storage of boats, motor homes, trailers, mobile homes, campers, commercial vehicles over one (1) ton, or inoperative vehicles.

- E. No person shall park or store a vehicle, nor place or store any construction or manmade materials or items on unimproved lots, even if the lot owner has given his/her approval to do so.
- F. Off-street visitor parking spaces shall not be used for long-term overnight parking by any visitor (i.e., over 72 hours) without prior approval of the Association Manager or Community Patrol Supervisor. Off-street parking spaces not designated as visitor parking may be used by residents, but only for short-term parking during the day and evening hours. They may never be used for overnight parking without prior approval of the Association Manager or Community Patrol Supervisor.
- G. A resident may park a recreational vehicle (RV), motor home, or a travel, boat, horse or utility trailer on his/her own property for periods of up to 48 hours at a time, including Saturday and Sunday, for the purpose of servicing and/or loading or unloading the vehicle. If a resident cannot park his/her oversized vehicle on his/her own property due to limited driveway space, then the vehicle may be parked on the street with a "on-street temporary permit received at the Country Club Gate.

Any resident expecting guests with a RV, motor home, trailer, or oversized truck of any kind (see above) shall notify the Association Manager or Community Patrol Supervisor (or if after hours, the gate attendant at the Country Club Gate). Suitable arrangements for short-term parking (up to 48 hours) of guests' vehicles in the Association office parking lot may be made at their discretion. (Any exception to the 48 hour parking limit in the community for visitor's oversized vehicles must be secured from the Association Manager or the Community Patrol Supervisor and will be given only at their discretion.)

All such oversized vehicles as described above shall enter/exit the community through the Country Club Gate **right lane**. Upon entering, a permit will be issued to the driver of the vehicle by the Country Club gate attendant which will be good for a 48 hour period. The permit is to be displayed on the windshield or dashboard of the vehicle at all times.

- H. Dumpsters and trailers for the collection of construction and landscaping debris must be parked in a driveway, not on the street, unless street parking is authorized by the Association Manager or Community Patrol Supervisor.
- I. The Association is authorized to remove, at the owner's expense, a vehicle to a storage garage or an area designated by the Association, under the following circumstances:
 - 1. When a vehicle upon a roadway is so disabled so as to constitute an obstruction or hazard to traffic, or the person or persons in charge of the

vehicle, by reason of physical injury or alcohol or drug intoxication, are incapacitated to such an extent as to be unable to provide for its custody and removal.

2. When any vehicle is left unattended upon a roadway and is parked illegally so as to constitute an obstruction or hazard to normal movement of traffic.
3. When a vehicle is parked or stored in violation of any community rule.

SECTION IX COMMON AREA RULES

The following rules shall govern all Tanoan East common areas:

- A. All plants, landscaping and topsoil are to be left undisturbed; cutting or digging up of plants, trees, or other landscaping materials is strictly prohibited.
- B. Firearms, BB guns, pellet guns, bows and arrows, fireworks, or similar devices are not to be discharged on or within Tanoan East common areas.
- C. No glass containers are permitted on common areas.
- D. Pets shall be leashed at all times on common areas.
- E. No motorized vehicles of any kind, except authorized maintenance vehicles, are permitted on common areas, except those common areas clearly designated as community roadways or those common areas expressly designated for vehicular use.
- F. Bicycles or any self-propelled vehicles of any kind, except for authorized maintenance vehicles, shall not be permitted on landscaped common areas.
- G. No fires shall be permitted on common areas.
- H. No signs, such as "For Sale" or "Open House", shall be permitted on common areas.
- I. Persons using the common areas shall refrain from loud and boisterous activities.
- J. Yard/garage sales are prohibited on all common areas.

SECTION X BICYCLE RULES

The following rules shall govern the use of bicycles within the Tanoan East community:

- A. The parents of any child and the guardian of any ward shall not authorize or knowingly permit their child or ward to violate any of the rules in this section and shall be totally responsible for their conduct.
- B. Any person operating a bicycle shall obey the instructions of all traffic control signals, signs and other control devices applicable to vehicles.
- C. Every person operating a bicycle on a roadway shall ride as near to the right side of the roadway as practical.
- D. No person shall ride a bicycle upon a sidewalk when it is reasonably safe to ride in the roadway or when signs are posted prohibiting bicycles on a given sidewalk.
- E. No person shall operate a bicycle at a speed either greater than the lawful posted speed limit or than is reasonable and prudent under the conditions then existing, whichever is the lesser.
- F. No person shall park or ride a bicycle so as to impede vehicular or pedestrian traffic.
- G. No person shall operate a bicycle on landscaped common areas or on private property other than his own without prior consent.

SECTION XI RULES FOR PETS

The following rules govern the keeping of pets in Tanoan:

- A. All provisions of the Albuquerque Animal Control Ordinance, as amended, shall apply in the Tanoan East community and are adopted by reference and incorporated herein in these *Community Rules* of the Tanoan Community East Association.
- B. Subject to the limitations below, generally accepted house pets in reasonable number and size may be kept and maintained in a living unit, provided such pets are not kept or maintained for commercial purposes.
- C. The following are strictly prohibited within the Tanoan community East: Any kind of livestock, horses, swine, insects (e.g., bees) or poultry, regardless of however domesticated.
- D. Animals are not allowed to run free in the community at any time. Except when on its owner's lot, an animal must be carried or on a leash and attended by a responsible person. In particular, an animal must be leashed and accompanied by its owner while on any Tanoan East common area.
- E. No animal may be leashed to any stationary object on any common area.
- F. No animal is permitted in or on any community facility, except as medically necessary (e.g., blind, deaf, etc.).
- G. Pet owners are responsible for any property damage, injury, or disturbances their pet(s) may cause or inflict.
- H. Pet owners are responsible for removal of any waste their animals should happen to leave on their own property, neighbor's property or common areas.
- I. Every female dog or cat while in heat shall be kept confined in a building or secure enclosure by its owner in such a manner that she will not be in contact with another dog (or, cat), except for intentional non-commercial breeding purposes, nor create a nuisance by attracting other animals.
- J. No dog shall be permitted to persistently or continuously bark, howl or make other loud noises, day or night. Persistently or continuously is defined consistent with the Albuquerque Noise Ordinance as "a 10-minute period during which animal noise is discerned in each of the ten 1-minute intervals therein."
- A. All pet owners shall register their animals with the Manager or Security Supervisor. Animals found running loose or not registered may be turned over to the City Animal Control, without liability to the Association and at the owner's expense.
- B. HEART Ordinance is the "Humane and Ethical Animal Rules and Treatments". All Albuquerque residents to include those in TCEA, are required to adhere to this

ordinance, which can be found at <http://www.cabq.gov/pets/rules-tools/heart-ordinance>. Failure to do so can result in a penalty of up to \$500.00 and/or 90 days in jail as determined by a Metro Court Judge.

SECTION XII TRASH CONTAINER RULES

The following rules shall govern the placement of trash containers in the Tanoan East community:

- A. The following rules are incorporated by reference from the TCEA *Master Restrictions*, Section 3.03(i).
- B. All refuse receptacles or containers, either owned by a resident or furnished by the City of Albuquerque for residential use, shall be enclosed and screened from public view (from any roadway or sidewalk) and protected from disturbance.
- C. Receptacles or containers shall not be placed in any unscreened area for collection more than sixteen (16) hours prior to the scheduled collection time without prior approval by the Association Manager or Community Patrol Supervisor.
- D. Receptacles or containers shall not be left in any unscreened area after midnight on the scheduled day of collection without the approval and consent of the Association Manager or Community Patrol Supervisor.

SECTION XIII RULES FOR SIGNS

Subject to review and change by formal resolution of the Planning Committee, no signs may be erected or maintained on common areas. Further, no signs that are visible from neighboring lots, project areas, common areas, or roadways shall be erected or maintained upon any lot or project area, with the following exceptions:

- A. Such signs as may be required or reasonably necessary by legal proceedings.
- B. During the time of construction of any structure, one (1) job identification sign, having a maximum face area of seven (7) square feet per sign for each lot.
- C. Not more than one "For Sale" or "For Rent/Lease" sign having a maximum face area of not more than four (4) square feet.

SECTION XIV MONETARY FINES FOR RULES VIOLATIONS

By the authority provided in the TCEA *Master Restrictions*, Section 7.08(a)(3), the Board of Directors, acting in behalf of the Association, may adopt, and change from time to time, fines, penalty assessments, and other enforcement rights for violation of these *Subdivision Rules*.

A. Violation of any Trash Container Rule (Section XII):

1. First Violation: \$10.00.
2. Second Violation: \$15.00 (within six months of a previous violation).
1. Third Violation: \$25.00 (within six months of a previous violation).
2. Any repeat violation over three (3) within a six month period shall result in each subsequent penalty assessment (fine) being increased by \$25.00 over the previous one for the remainder of the six month period.

B. Barking Dogs, Pets not on a Leash, Not Picking up after your Dog

1. First Violation: \$25.00.
2. Second Violation: \$50.00 (within six months of a previous violation).
3. Third Violation: \$100.00 (within six months of a previous violation).

C. Driving a Motorize Vehicle, Including a Golf Cart, Without a Valid Driver's License

1. First Violation: \$55.00.
2. Second Violation: \$100.00 (within twelve months of a previous violation).
3. Third Violation: \$200.00 (within twelve months of a previous violation).

D. Exceeding 20 mph Speed Limit Throughout the Tanoan East Community

1. First Violation: \$50.00.
2. Second Violation: \$100.00 (within twelve months of a previous violation).
3. Third Violation: \$200.00 (within twelve months of a previous violation).

E. Overnight Parking on Streets and Off Street Parking

1. First Violation: \$25.00.
2. Second Violation: \$50.00 (within six months of a previous violation).
3. Third Violation: \$100.00 (within six months of a previous violation).

F. Disregarding Stop Signs

1. First Violation: \$50.00.
2. Second Violation: \$100.00 (within twelve months of a previous violation).
3. Third Violation: \$200.00 (within twelve months of a previous violation).

G. Parking on Property of RV's, Trailers, Boats, Utility Trailers, Jet Skis, etc. in Excess of 48 Hours

1. First Violation: \$25.00.
2. Second Violation: \$50.00 (within six months of a previous violation).
3. Third Violation: \$100.00 (within six months of a previous violation).

H. Parking on Sidewalk

1. First Violation: \$25.00.
2. Second Violation: \$50.00 (within six months of a previous violation).
3. Third Violation: \$100.00 (within six months of a previous violation).

I. Operation of a Motor Vehicle in a Careless, Negligent, or Imprudent Manner

Persons cited for any of the above reasons may be requested to appear before the Board of Directors for an investigation of the incident. Regardless of whether or not the individual operating the motor vehicle appears before them, the Board of Directors has the authority to issue a citation, levy a penalty assessment for the violation, or suspend specific rights and privileges on a case-by-case basis.

J. Violations of Planning Committee Rules

A penalty assessment, as stated below, shall be assessed to any resident for failure to get Planning Committee approval prior to beginning a project requiring such approval, as specified in any governing document of the Association.

The minimum monetary fine for the penalty assessment as stated above shall be \$100 for each incident. The Board of Directors may exercise its own discretion in regard to modifying the amount of the fine, depending on the circumstances of each individual case.

SECTION XV

CITATION/PENALTY ASSESSMENT APPEAL PROCEDURES

Every resident has the right to appeal a citation or penalty assessment before the Board of Directors when he/she is cited for a violation of any governing document of the Association (including but not limited to the *Master Restrictions, Community Rules, or Planning Committee Rules*). However, all requests for an appeal must be made to the Manager or the Security Supervisor within ten (10) calendar days of the date of the formal notice of citation or penalty assessment. Requests for an appeal before the Board of Directors may be made in person or by letter. However, all such requests must be received within this ten (10) calendar day limit.

After ten (10) calendar days have lapsed, the right of appeal is automatically withdrawn.

NOTE: A formal notice is always posted via First Class Mail to the resident within three (3) business days following the issuance of a citation/penalty assessment. By legal precedence, any correspondence posted in the U.S. mail is presumed to have been delivered to the addressee within 72 hours. A resident's contention that he/she did not receive the notice of violation shall not constitute a valid reason for waiving or extending this ten (10) calendar day right of appeal provision, nor, in any way, relieves the resident of the responsibility for payment of the applicable citation/penalty assessment as established in any governing documents of the Association.

When a request for an appeal has been made, the following procedure will take place:

- A. A notice regarding the appeal will be mailed to the appellant and shall contain the date, time, location, and procedure that will be used at the appeal before the Board of Directors. All appeals are held in the TCEA Management Office Conference Room, 11005 Spain NE.
- B. All appeal hearings are held in private before the Board of Directors and are conducted according to the rules that follow. The Association Manager and/or Security Supervisor may attend the appeal hearing if deemed advisable by the Board of Directors.
 1. A quorum of three Board members must be present to hear an appeal. Proxies will not be used for absent Board members.
 2. Any party may waive their right to exercise any part of the appeal process. The Board is entitled to exercise its discretion as to the specific and final manner in which any appeal will be conducted.
 3. The President of the Board of Directors (or the next highest ranking Officer of the Board in the absence of the President) will serve as the Chairperson of the hearing.
 4. The Chairperson introduces the Board members and all parties present.

5. The Chairperson reads the citation or penalty assessment.
6. The appellant presents his/her case, along with witnesses and any supporting facts and evidence.
7. If the appellant's citation or penalty assessment was issued by a community patrol officer, that employee may be called to present his/her findings, along with witnesses and any additional supporting facts and evidence.
8. Questions may be asked during the proceedings by anyone present.
9. The Chairperson calls for any discussion of the facts and evidence presented.
10. The Board members vote by closed (secret) ballot.
11. The Chairperson may announce the results of the voting or may adjourn the hearing to an executive session (Board members only) for further deliberation.

C. Only one of three (3) outcomes is possible following the appeal hearing:

1. The appeal is accepted.
2. The appeal is denied
3. The appeal is denied, with the following condition; the citation or penalty assessment shall be held in abeyance pending no repeat violations (of the same type and kind) within 90 days or a time period specified by the TCEA Board . If there are no further violations within ninety (90) days, then the citation or penalty assessment will be excused. However, the violation will remain on the appellant's record.

If the appeal is accepted, the citation or penalty assessment may be excused entirely or the monetary fine may be modified.

If the appeal is denied, and the citation or penalty assessment is upheld, then payment of the monetary fine is due within ten (10) days of the hearing. Payment of the fine shall include any monies that were expended from the operating fund (legal fees, etc.) by the Association in performing its function in the appeal process (see TCEA *Master Restrictions*, Article/Section 8.05 & 8.06).

SECTION XVI: RESIDENT COMPLAINT/DISPUTE RESOLUTION PROCEDURES

When a resident raises a question of compliance with any TCEA governing document (including but not limited to the *TCEA Master Restrictions*, the *Community Rules*, the *Planning Committee Rules*, the *By-Laws* or the *Articles of Incorporation*) by a resident, a member of his/her family, his/her visitors, or guests, the following procedures apply:

A. Responsibility for Compliance

1. Every resident is ultimately and solely responsible for the actions of his/her family members, guests, and visitors and may be charged penalty assessments for any violation of the rules found in the TCEA governing documents.
2. In accordance with the *TCEA Master Restrictions*, Article/Section 7.08(b), any visitor or guest that violates any one or more parts of any TCEA governing document may be prohibited further access to the Tanoan East community.
3. The rules violation history for the household of each resident shall be considered independently.

B. If a resident has a complaint of non-compliance with any Tanoan East governing document (i.e., one resident lodges a complaint against another resident for an apparent or perceived rules violation), the complainant may make a written request to the TCEA management office to remedy the situation. Following receipt of the written request, the Association Manager or Community Patrol Supervisor will attempt to resolve the alleged rule violation with or without disclosure of the complainant.

C. If the complainant does not feel his/her complaint has been sufficiently resolved, then the following procedure shall be taken to initiate further action:

1. The complainant must prepare and file a written and signed complaint to the Association requesting a hearing before the Board of Directors.
2. This complaint must include the following:
 - a) A concise statement of the violation(s) with which the respondent, or defendant, is being accused and the specific rule which the respondent, or defendant, is alleged to have violated.
 - b) Supporting facts and evidence, with as many specifics as are available regarding date, time, location, persons involved, witnesses,

etc.

- D. Upon receipt of the written complaint, the Board of Directors will notify the respondent, or defendant, in writing of the complaint against him/her.
- E. The respondent, or defendant, may elect to file a written objection, or defense, with the Board of Directors in response to the complaint.
- F. If a satisfactory resolution is not reached between the Association, complainant and respondent (defendant), the Board of Directors will then set a hearing date that is agreeable to all parties, which will be held according to the following rules, in the TCEA Management Office, 11005 Spain NE. All hearings are held in private before the Board of Directors; however the Association Manager and/or Community Patrol Supervisor may attend the hearing if the Board of Directors deems it advisable and/or necessary. The respondent, or defendant, may file a written letter with the Board of Directors stating his/her decision not to attend the hearing as scheduled in his/her own defense, or he/she may attend the hearing as scheduled by the Board of Directors to present his/her defense in person.
- G. Neither the complainant nor the respondent (defendant) must be in attendance at the hearing. At the request of either party, the hearing may be conducted in Executive Session (Board members only). However, the final decision to hold the hearing in Executive Session will be made by the Board of Directors.
- H. It shall be incumbent upon each member of the Board of Directors to make a determination as to whether he/she is able to function in an unbiased and objective manner in consideration of the case before the Board. Any member of the Board believing he/she is incapable of unbiased and objective consideration shall disclose such to the other members of the Board and remove him/herself from the hearing, and have it so recorded in the minutes. The remaining members of the Board shall hear the case as long as a quorum is present to decide the case.
- I. The hearing will be held in accordance with these rules:
 - 1. A quorum of three Board members must be present to hear and to vote on the hearing. Proxies will not be used for absent Board members.
 - 2. Any party may waive their right to exercise any part of the hearing process. The Board is entitled to exercise its discretion as to the specific and final manner in which any hearing will be conducted.
 - 3. The President of the Board of Directors (or the next highest ranking Officer of the Board in the absence of the President) will serve as the Chairperson of the hearing.
 - 4. The Chairperson introduces the Board members and all parties present.
 - 5. The Chairperson reads the written complaint and the written defense if one

has been submitted to the Board.

6. The complainant presents his/her case, along with witnesses and any supporting facts and evidence.
 7. The respondent, or defendant, presents his/her case, along with witnesses and any supporting facts and evidence. If the respondent, or defendant, elected not to attend the hearing in person, the Chairperson presents his/her case in his stead.
 8. Questions may be asked and/or evidence rebutted in an orderly manner during the proceedings by anyone present.
 9. The Chairperson calls for any discussion of the facts and evidence presented.
 10. After all testimony and evidence has been presented, the Board shall vote in private upon the matter, with a majority of the Board members controlling.
 11. The Board of Directors may make its decision at the conclusion of the hearing, but has no obligation to do so. A decision must be made, however, no later than ten (10) calendar days following the hearing.
 12. The Board shall prepare a written finding of fact following its decision. Such written fact shall be maintained in the Association records and sent to both the complainant and the respondent no later than ten (10) calendar days following the hearing.
- J. The above described administrative procedures and remedies are available to all residents for use in their attempt to achieve a satisfactory resolution in any neighbor-to-neighbor complaint. Use of these administrative procedures is not a pre-condition to taking action in court; however, its use may avoid the need for costly court and legal proceedings.

These amended *Subdivision Rules* were formally adopted by the Board of Directors of the Tanoan Community East Association, Inc. on the 20th day of June 2013.

ATTEST:

**James Kirkpatrick, President
Board of Directors**

**Doug Bosomworth, Secretary
Board of Directors**

APPENDIX

GATE ENTRY DEVICES

Vehicle Access Gates

There are two vehicle access gates into Tanoan Community East. The Country Club gate is off Academy at Country Club/Rolling Hills, just east of Eubank. The Lowell gate is further east on Academy at Lowell Street. The Country Club gate is staffed 24/7, while the Lowell gate is fully automated and is not staffed. Residents may use either gate, and all gate remotes work at both gates. (See Appendix for details on opening gates).



Residents are asked to use the right lane at the Country Club gate and leave the left lane for visitors that need to interact with the Community Patrol officer. Residents should use the left lane at the Lowell gate, and may use either a remote or card. All commercial vehicles and vendors must use the Country Club Gate. Vehicles pulling trailers are not allowed to enter through the Lowell gate. Visitors that do not have codes or access devices, or are visiting a resident that is not listed in the call box, must use the Country Club gate.

The vehicle access gates were installed to control access to the community, thus reducing traffic, slowing the traffic as it enters the community and providing a deterrent to individuals who have no legitimate business in the community. Do not tailgate other cars through the gates – only one car at a time. Allow the gates to close and activate the gates with your access device. When opening the gates, take precautions to make sure that unauthorized vehicles can not follow. Unauthorized vehicles that do "tailgate" should be reported immediately. The gates do not provide security or guarantee safety, therefore every owner should take care in protecting their property as is reasonable and prudent.

The entry gates are equipped with an automatic timer to close. Therefore, drive through the gate promptly once it has fully opened.

As noted above, the resident vehicle access gates at the Country Club entrance may be opened using a remote. The vehicle access gates at the Lowell entrance may be opened using: (1) a remote; (2) a proximity card; (3) a telephone call box; or (4) a key code.

Remote: (Resembles a small garage door opener)

Gate remotes work at both the Country Club gate and Lowell gates. The button marked 1 opens the arm and gate in the left lane, while 2 opens the right lane. Remotes will operate within approximately 35 to 50 feet of the gate. When within range, press the button on the remote for 2 to 3 seconds. The red light will illuminate momentarily. Remember to allow the gate to open completely and proceed through the gate promptly. Begin pressing the button well before you reach the gate house. If you wait until you are at the gate house, you may have gone beyond the area that is in range of the antennas.



If a gate remote is not working properly, first replace the battery. The gate remotes operate by sending a signal to the antenna at the gate operators. Just because the battery is strong enough to light the red light on the device does not mean it is strong enough to send the signal to the antenna. The gate remotes operate on 12-volt type MN21 alkaline batteries, and these batteries should last approximately one year, depending on use. Replacement batteries are available at Radio Shack and other local retail stores. If the battery has been changed and the remote is still not working properly, contact the Association Manager for assistance. Remotes are warranted for 30 days from date of purchase. Cards are not warranted.

Proximity Cards: (Lowell gate only)

To open the gate, touch the card to the yellow card reader. There are 3 card readers at the Lowell gate – one in the left lane by the gate house, one in the right lane in line with the gate house, and one mounted on the entry pedestal to the left of the keypad. Note there is no front, back, up or down to the card; the card can be presented in any direction. Access will be granted when the card reader light turns green. Allow the gate to open completely and proceed through the gate promptly. Note that the cards are plastic and can break if bent or folded. Exposure to direct sunlight, extreme cold, heat, water, or strong magnets can damage the card and render it inactive.



Telephone Call Box (Lowell gate only – right lane)

The Door King Telephone Entry System uses a residents telephone to communicate with visitors and allow access. The visitor simply scrolls the resident listing to find the name of the resident they are visiting and – with the arrow next to the resident's name - presses the call button. The system dials the resident telephone number as programmed in the system's memory and the resident telephone will ring. Visitors must call from the gate entry system using the "call" button, not from a personal cell phone. The system keeps the resident's telephone number and address confidential; they are not displayed on the directory. The resident must have a touch-tone telephone that must be set on tone, not pulse. (Resident cell phones and phones with long distance numbers may be used with the gate system. The Association Manager needs to be involved to arrange this feature)



When the resident answer the telephone, he/she will be talking to the visitor at the gate. The connection lasts for approximately one minute. The system will automatically disconnect the call 10 seconds after the resident hears a short tone signaling its termination. The resident can dial "9" on his/her telephone to open the gate or press "#" to hang up without granting entry.

If the resident allowed access by dialing "9", the system will open the gate for a preset period of time. The visitor will see a displayed message, "ACCESS GRANTED - PLEASE ENTER NOW." The resident will then hear a confirmation tone in his/her handset indicating the gate has opened, and then the system will automatically hang up.

If the resident is on the telephone when a visitor tries to call, the visitor will receive a busy signal, unless the resident has call waiting. If the resident has call waiting he/she can simply switch over to the call from the visitor and allow or deny entry as outlined above.

It is important that the resident provide his/her telephone number to the Association Management Company if he/she wish to use the call box at the Lowell gate. The call box must be programmed with the resident phone number to allow communication with visitors requesting access. By default, resident names are not displayed on the call box unless specifically requested.

Key Codes (Lowell gate only)

Residents may have a four-digit code programmed into the gate system for access through the Lowell gate. Users of the code must use the keypad on the left side of the podium under the "Visitors Stop Here" sign in the right lane at the Lowell gate. This is the keypad with the silver keys below the display screen. Press the # button followed by the four-digit code to open the gate. It is not necessary to have a residents name listed in the gate directory display to use a code. If a resident would like to use a code at the Lowell gate, please contact the Association Management Company.



Exiting Vehicle Gates

The exit gate will automatically open when a vehicle drives over the "exit loop" which is buried in the roadway. Approach the gate slowly, wait for the gate to open completely and proceed through promptly. Do not attempt to back up, as severe tire damage may result.

The exit gate will begin to close once it no longer senses a vehicle over the exit loop buried under the pavement on the inside of the gate. Therefore, make sure there is sufficient passage to clear the gate and get through the gate promptly once it has fully opened. Do not tailgate, only one car at a time. If you do not have adequate passage to completely clear the gate once you drive off the exit loop buried in the pavement, and there is a need to stop before clearing the gate, it could close and cause damage to the vehicle. The Association and Association Management Company are not responsible for damage to vehicles caused by failure to follow these instructions.

In the event of a power failure, the gates are equipped with a battery backup system. The gates will automatically open when power is interrupted and automatically close when power is restored.

Important Warnings

- The entry and exit gates are constructed of heavy steel and move automatically by use of electric motors.
- Do not stop a vehicle in such a manner that the gate can make contact with the vehicle.
- When exiting, do not attempt to back up, as severe tire damage may result.
- Do not affix any body parts (hands, arms, legs, etc.) to gates or gate operators.
- Children and pets should never be allowed to play on or around gates or gate operators.

- Do not stand or hang on gates or gate operators at any time.
- Gates are for vehicle use only, damage and/or injury can occur if misused. Use the pedestrian gates on the sidewalk when entering on foot or with a bicycle.
- Residents should use the gates properly. Residents and their guests are responsible for any damage they may cause to the gates.
- The Association and Association Management Company are not responsible for damage or injury that may occur to individuals or vehicles while using the gates.

Pedestrian Access Gates

The pedestrian access gates along the sidewalk at the Country Club and Lowell gates may be opened using a code that is provided to homeowners by the Association Manager.