

# *Community Rules*

Revised March 2012

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## INTRODUCTION

These *Community Rules*, initially entitled *Subdivision Rules*, were adopted on September 27, 1979 and revised on March 17, 1994 by the Board of Directors of the Tanoan Community Association, Inc., 9820 Murifield Court, NE, Albuquerque, New Mexico 87111. The *Subdivision Rules* were renamed *Community Rules* and revised on July 21, 2005 and revised on March 15, 2012. The *Subdivision Rules* as initially adopted and all revisions as stated above were developed pursuant to the *Tanoan Community Master Restrictions*, Section 7.08 and the *Tanoan Community By-Laws*, Article VIII, Section 2(b), and shall prescribe the following:

- A. Rules governing the use of all Tanoan common areas and community roadways by all Tanoan Association residents (member-owners and tenants).
- 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 residents.
- F. Procedures regarding matters of non-compliance with these *Community Rules*.

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

March 15, 2012

## SECTION I: DEFINITIONS

The definitions contained in the Tanoan Community 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 *Community Rules* have the meanings as follows:

- A. **Association:** The Tanoan Community Association, Inc. (TCA), a non-profit New Mexico corporation, and any predecessor or successor incorporated or unincorporated association, as set forth in the Tanoan Community Association *Master Restrictions*, Article 7.
- B. **Bicycle:** Every pedal-powered device propelled by human power upon which one or more persons may ride.
- C. **Careless Driving:** Any person operating a vehicle on a roadway shall give their full and undivided attention to the operation of that vehicle. Any person who operates a vehicle in a careless, inattentive, or imprudent manner without due regard for the condition of traffic, weather, roadway, grade, corners, width of roadway, posted speed limits, and all other attendant circumstances so as to endanger life, limb, or property of any person shall be guilty of "careless driving."
- D. **Citation:** An official summons, or "ticket," issued by any TCA security officer or employee for violation of these *Community Rules*. All such citations shall impose a penalty assessment.
- 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:**
  - 1. Maintenance Assessments (as defined in Letter M of this section): Considered delinquent if not received by 5:00 PM on the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) month of each quarter.
  - 2. Penalty Assessments as defined in Letter U of this section): Considered delinquent if not received by 5:00 PM on the thirtieth day after the date of the violation notice letter.
- H. **Driver-Operator:** Every person who drives a motor vehicle or is in the 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.
- I. **Excessive Speed:** No person shall drive a vehicle on a community street or roadway in

excess of the lawfully posted speed limit of 25 miles per hour or as displayed by posted signs in work sites.

- J. **Guests:** Anyone entering the property at the request of a resident (member-owner or tenant) or to visit a resident (member-owner or tenant) for any purpose.
- K. **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.
- L. **Late Charge:** A special surcharge of 10 percent (10%) applicable to delinquent assessments of any kind.
- M. **Maintenance Assessments:** The quarterly "dues" 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.
- N. **Member-Owner:** Any person or persons holding membership in the Tanoan Community Association, Inc. by virtue of being an owner. Also see "Owner."
- O. **Motorist:** Any person who drives or is in actual physical control of a motor vehicle.
- P. **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.
- Q. **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."
- R. **Nuisance:** Nuisance is defined as "the unwarranted and/or unlawful use of property, 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.
- S. **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, and excluding persons holding only a security interest). For the purposes of the *Community Rules* and the *TCA Master Restrictions*, Article 3, Property Classification and Use, unless the context otherwise requires.

- T. **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.
- U. **Pedestrian:** Any person afoot.
- V. **Penalty Assessment:** Assessments imposed for violation of these *Community Rules*, or of 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.
- W. **Resident:** Any person (either member-owner or tenant) residing, permanently or temporarily, within the Tanoan Community. Any resident is subject to these *Community Rules*.
- X. **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 and citation penalty assessments.
- Y. **Right-of-Way:** As between two or more vehicles, bicycles or pedestrians, the privilege of the immediate use of the roadway.
- Z. **Security Officer:** A person employed and retained by the Association and vested with the responsibility and authority of enforcing these *Community Rules*.
- AA. **Sidewalk:** The concrete walkway lateral to the roadway and the adjacent property, intended for the use of pedestrians.
- BB. **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.
- CC. **Traffic Control Signal:** Any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and then to proceed.
- DD. **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 mark traffic lanes.
- D. To establish no lane changing zones.
- E. To establish no passing zones.
- F. To place turning markers.
- G. To place restricted turn signs.
- H. To place load restrictions, prohibit commercial vehicles or through traffic, and restrict the movement of traffic to one way on certain roadways.
- I. To designate intersections where a stop or stopping is required.
- J. To erect "stop" and/or "yield" signs.
- K. To designate school crossings.
- L. To designate crosswalks.
- M. To designate foot, bicycle, and golf cart paths; lanes; and streets.
- N. To restrict or prohibit stopping, standing, storage, or parking.
- O. To erect signs on one-way roadways.
- P. To retain security officers for enforcement of rules.
- Q. To use and maintain speed monitoring equipment.
- R. 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.
- S. To issue citations/penalty assessments for violations of any of these *Community Rules*.
- T. To establish appropriate monetary fines for violations of these *Community Rules*.
- U. To control, operate and maintain the automated gate access system.

V. To monitor illegal use of motor vehicles by unlicensed drivers.

## SECTION III: MAINTENANCE ASSESSMENTS and PENALTIES FOR DELINQUENT/OVERDUE PAYMENTS

- A. The Tanoan Community Association maintenance assessments, or "dues," are billed quarterly and paid in advance. They are due and payable on the first day of each quarter: January, April, July and October, and are considered late or delinquent if not paid by the due date (see *Master Restrictions*, Section 8.12). The Association shall assess a late charge (see Section C below) on any assessment not received in the Tanoan Community Association office by 5:00 p.m. on the fifteenth (15<sup>th</sup>) day of the month in which it is due. If the fifteenth (15<sup>th</sup>) falls on a weekend day, then payment must be in the office by 5:00 p.m. on the following regular business (work) day.
- B. All documents, correspondence and notices relating to the charges shall be posted in the U.S. Mail to the addressee who appears on the list of those responsible for payment. **NOTE:** Non-receipt of a billing invoice or notice shall not, in any way, relieve the owner (or renter) of the responsibility for payment or the obligation to pay the amount due. By legal precedence, any correspondence posted in the U.S. mail is presumed to have been delivered to the addressee within 72 hours. Reference the TCA *Master Restrictions*, Article/Section 13.08.
- C. If any assessment is not paid in full within fifteen (15) days after its due date, the Association shall assess a ten percent (10%) late charge on the balance due. See TCA *Master Restrictions*, Article/Section 8.12.
- D. Upon the maintenance assessment being delinquent for thirty (30) calendar days past the due date, this assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month. See TCA *Master Restrictions*, Article/Section 8.12.
- E. If any delinquent assessment has not been paid by the 30<sup>th</sup> day following its due date, TCA management may post to the owner, by First Class Mail or by Certified Mail, a notice of intent to file a lien against the owner's property if the delinquent assessment has not been paid by the forty-fifth (45<sup>th</sup>) day following its due date. See TCA *Master Restrictions*, Article/Section 8.11.
- F. Additionally, on the thirtieth (30<sup>th</sup>) day following the due date of the delinquent assessment, all remote gate opener and/or gate access card devices the resident holds may be deactivated by TCA management. These devices shall not be reactivated until all obligations to the Association have been paid. See Section V.
- G. On or after the forty-fifth (45<sup>th</sup>) calendar day following the due date of the assessment, TCA management may file a lien with the Bernalillo County Real Estate Records to recover the amount of the maintenance assessment, late charges, interest, filing fees, and attorney's fees, all of which shall accrue from the date of delinquency until the actual date of full payment. Additionally, management may formally notify one or more national credit bureaus of the delinquency.
- H. An additional \$25.00 service charge may be assessed for every returned check (or in an amount consistent with current charges set by local financial institutions).

## SECTION IV: CITATION / PENALTY ASSESSMENT PROCEDURES

Once a resident (member-owner, family member, tenant), or guest of such, has received a citation or penalty assessment for a specific violation of these *Community Rules*, or any other governing document of the Association, the following procedures will be followed:

- A. The resident, tenant, or resident's guest may receive a copy of a citation or penalty assessment in any of the following ways: in person directly from a TCA 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 TCA 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. It is that resident's responsibility to notify his guest of the citation or penalty assessment, and it is also that resident's responsibility to pay that citation or penalty assessment if the guest refuses to do so.
- C. A formal letter notifying the resident or his guest of his/her violation of these *Community 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 TCA *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 TCA *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 TCA 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 and one-half percent (1-1/2%) per month. See TCA *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), TCA 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 (45<sup>th</sup>) day following the due date (date of delinquency). 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 45<sup>th</sup> day following the due date (date of delinquency).
- H. Further, on the forty-fifth (45<sup>th</sup>) 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 *Community 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 TCA *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 (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* and/or these *Community Rules* (see *Master Restrictions* Article 8.05).
- K. An additional \$25.00 service charge will be assessed for every returned check, or in an amount consistent with current charges set by local financial institutions.

## SECTION V: COMMUNITY ACCESS

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

### A. **All Residents:**

1. Vehicle Registration. All Tanoan residents must register all of their motor vehicles with the TCA Security Supervisor and, in turn, will be issued a Tanoan decal for each vehicle. Residents must display the Tanoan 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 TCA security officer. These decals are non-transferable between vehicles owned by a given resident or between residents.
2. Guest Registration. The Tanoan gate access system is a computer-based system which allows storage of guests' names for each resident in the resident's approved visitor access list. Although residents are not required to use this capability, they are strongly encouraged to take advantage of this important feature, as it directly benefits their guests by minimizing their waiting time for community access.

**NOTE:** A resident's unique approved visitor access list is treated as confidential information by all Association personnel. For security reasons and accuracy, all residents are asked to contact the TCA management office to make additions or deletions to their individual lists.

### 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 TCA 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 TCA *Master Restrictions*, these *Community 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 TCA 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 are non-transferable between residents or between owners and renters.
- (g) Fully understand that upon the sale of or physical move from a Tanoan property, all issued devices for that property will be deactivated.

**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 Academy Gate and may only use the Ventura Gate when a gate attendant is on duty.

**D. Non-Commercial Visitors:**

- 1. All such visitors will enter, be stopped and challenged at the main entrance (Academy Gate), and must clearly identify themselves and specify their precise destination. **NOTE:** The Ventura Gate may not be used by any visitor at any time.
- 2. If the visitor is listed on a resident's approved visitor access list, then the visitor will be allowed to proceed into the community. Any person listed on a resident's approved visitor access list will be granted access to the community at any time and will not be required to obtain a visitor's pass.

**NOTE:** By authorizing access of a visitor into the community (either via an approved visitor access list or verbally by telephone), the resident assumes full and complete responsibility for the conduct and actions of that visitor (with respect to compliance with these *Community Rules*) while he/she is within the community boundaries.

- 3. If the visitor is not listed in a resident's approved visitor access list, then the visitor may be instructed to pull into and park in one of the visitor parking spaces (immediately north of the Academy Gate) and physically come into the gate house. The gate attendant may then call the applicable resident's home and

request permission to grant access into the community for the visitor.

4. If the resident does not answer the telephone or if the resident denies access to the visitor, then the visitor will be denied access into the community and will be asked to leave the property immediately.

**E. Contractors:**

1. All contractors and workmen will enter, be stopped and challenged at the Academy 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 Academy Gate and informs the gate attendant whom they are expecting and authorizes their access into the community in advance of their arrival.

**F. 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 either the Academy or Ventura Gate.

**G. Parties, Open Houses and Special Gatherings:** The TCA 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.

**H. 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 TCA 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 phone 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 a

telephone 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 Academy Gate personnel of the expected visitor.

## SECTION VI: PLANNING COMMITTEE RULES

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

Please refer to the TCA *Master Restrictions*, Articles 3, 4, 5, and 6 for a complete description of responsibilities and rules of compliance. In addition, the Manager maintains a current copy of the *Planning Committee Rules* in the TCA Office, which is available for review and inspection by any resident. Further, the 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 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 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 Association in general and upon all individual Tanoan 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 re-landscaping) 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 Manager for advice and counsel, and (b) carefully review the *Planning Committee Rules* available in the TCA 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.

**NOTE:** Any resident, who knowingly or unknowingly, circumvents the *Master Restrictions*, these *Community 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 *Community 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, operate, or be in actual physical control of a vehicle, carelessly or negligently, 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 be likely to endanger any person or property.
- C. No person shall drive, operate, or be in actual physical control of a vehicle in a careless, negligent, inattentive or imprudent manner, without due regard for conditions of traffic, weather and roadway, grade, corners, width of roadway, posted speed limits, and all other attendant circumstances, so as to endanger life, limb or property of any person.
- D. 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 TCA security officer when given a visual or audible signal to stop, whether the signal is hand, voice, emergency light, flashing light, siren or other signal.
- E. 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.
- F. 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" or "California stops" shall be considered violations of this rule.
- G. Upon all roadways of sufficient width, vehicles shall be driven upon the right half of the roadway.
- H. A vehicle passing around a traffic island shall be driven only to the right of the island unless otherwise marked or blocked.
- I. No person shall drive a vehicle upon or within a sidewalk area that will partially or fully block a driveway.
- J. No person shall place or allow to remain, any object, material, gravel, dirt, sand or other substance next to the curb, on the curb or on the roadway for the purpose of creating a temporary driveway to allow vehicular traffic to cross the curb at that point.
- K. 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.

- L. 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.
- M. No person shall drive a motor vehicle on a roadway at a speed in excess of 25 miles per hour or, if it is different, the lawfully posted speed limit.
- N. All-terrain vehicles (3 & 4 wheeled), go-carts and dirt bikes cannot be operated within the community. All other unlicensed motor vehicles including, but not limited to, (bicycles, and self propelled items such as skateboards and scooters) may be restricted if operated in a careless or unsafe manner as determined by the security staff.
- O. The driver of any vehicle shall obey the instructions of any traffic control device or signal applicable thereto and placed in accordance with these *Community 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.
- P. No person shall drive a licensed vehicle within the confines of the Tanoan community without a valid driver's license.
- Q. Golf carts must be driven by a licensed driver only.
- R. No person, child or adult, shall create a nuisance for any TCA 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 Association office immediately for action to be determined by the Manager, Security 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 *Community Rules*, or (d) at the direction of a TCA security 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. Security will consider violation enforcement at any time between 2:00 AM and 6:00 AM, unless prior arrangements have been made with the Manager or Security Supervisor (or, if after hours, with the gate attendant at the Academy Gate). 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 Manager or Security 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 Manager or Security 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 in the Association office parking lot for a period of up to 48 hours at a time, only after first securing permission from the Manager or the Security Supervisor to do so. Combining storage of such a vehicle on the resident's property and the Association office parking lot in an effort to extend the 48 hour rule is not allowed. The intent of this rule is to allow residents to park their vehicles on their own property for up to 48 hours (unless prevented by limited driveway space) for the purpose of loading, unloading and servicing of the vehicle, and to allow resident's guests to do the same in the Association parking lot. (Any exception to the 48 hour parking limit in the community for resident's oversized vehicles must be secured from the Manager or the Security Supervisor and will be given only at their discretion.)

Any resident expecting guests with a RV, motor home, trailer, or oversized truck of any kind (see above) shall notify the Manager or Security Supervisor (or if after hours, the gate attendant at the Academy 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 Manager or the Security Supervisor and will be given only at their discretion.)

All such oversized vehicles as described above shall enter/exit the community through the Academy Gate. Upon entering, a permit will be issued to the driver of the vehicle by the Academy 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 Security 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 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 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 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 community and are adopted by reference and incorporated herein in these *Community Rules* of the Tanoan Community 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: 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 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."
- K. 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.
- L. HEART Ordinance is the "Humane and Ethical Animal Rules and Treatments". All Albuquerque residents to include those in TCA, 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 community:

- A. The following rules are incorporated by reference from the TCA *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 Manager or Security 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 Manager or Security 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 TCA *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 *Community 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).
3. *Third Violation*: \$25.00 (within six months of a previous violation).
4. 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. All of the following violations shall be assessed the monetary fines as listed below:

Speeding Violation (Section VII, M)  
Stop Sign Violations (Section VII, F)  
Parking Rule Violations (Section VIII)  
Common Area Violations (Section IX)  
Pet Rule Violations (Section XI)  
Sign Rule Violations (Section XIII)

**Driving a motorized vehicle, including a golf cart, with out a valid driver's license.**

1st Violation \$50.00  
2<sup>nd</sup> Violation \$100.00 (within 12 months of previous violation)  
3<sup>rd</sup> Violation \$200.00 (within 12 months of previous violation)

**Exceeding 25 mph Speed Limit throughout the Tanoan Community.**

1<sup>st</sup> Violation \$50.00  
2<sup>nd</sup> Violation \$100.00 (within 12 months of previous violation)  
3<sup>rd</sup> Violation \$200.00 (within 12 months of previous violation)

**Overnight parking on streets and off street parking.**

1st Violation \$25.00  
2<sup>nd</sup> Violation \$50.00 (within 6 months of previous violation)  
3<sup>rd</sup> Violation \$100.00 (within 6 months of previous violation)

**Disregarding Stop Signs**

1st Violation \$50.00  
2<sup>nd</sup> Violation \$100.00 (within 12 months of previous violation)  
3<sup>rd</sup> Violation \$200.00 (within 12 months of previous violation)

**Parking on Property of, RV's/Trailers/Boats/Utility Trailers/  
Water Ski's/ etc. in excess of 48 hours.**

1<sup>st</sup> Violation \$25.00  
2<sup>nd</sup> Violation \$50.00 (within 6 months of previous violation)  
3<sup>rd</sup> Violation \$100.00 (within 6 months of previous violation)

**Parking on Sidewalk**

1<sup>st</sup> Violation \$25.00

2<sup>nd</sup> Violation \$50.00 (within 6 months of previous violation)

3<sup>rd</sup> Violation \$100.00 (within 6 months of previous violation)

**Barking Dogs, Pets not on a leash, Not Picking up after your Dog**

1<sup>st</sup> Violation \$25.00

2<sup>nd</sup> Violation \$50.00 (within 6 months of previous violation)

3<sup>rd</sup> Violation \$100.00 (within 6 months of previous violation)

- C. Operation of a motor vehicle in a careless, negligent, or imprudent manner (Sec. VII):

Persons cited for any of these reasons may be called to appear before the Board of Directors for an investigation of the incident. The Board of Directors has the authority to establish the amount or monetary value of the citation or penalty assessment and/or the suspension of specific rights and privileges on a case by case basis.

- D. Violations of Planning Committee Rule:

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 TCA Management Office, 9820 Murifield Court, 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 security 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 TCA 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 TCA *Master Restrictions*, Article/Section 8.05 & 8.06).

## **SECTION XVI: RESIDENT COMPLAINT/DISPUTE RESOLUTION PROCEDURES**

The following procedures apply when there is a question of compliance with any TCA governing document (including but not limited to the *TCA 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.

- 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 TCA governing documents.
  - 2. In accordance with the *TCA Master Restrictions*, Article/Section 7.08(b), any visitor or guest that violates any one or more parts of any TCA governing document may be prohibited further access to the Tanoan 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 governing document (e.g., one resident lodges a complaint against another resident for an apparent or perceived rules violation), the complainant may make a written request to the TCA management office to remedy the situation. Following receipt of the written request, the Association Manager or Security 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 TCA Management Office, 9820 Murifield Court NE. All hearings are held in private before the Board of Directors; however the Association Manager and/or Security 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.

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**These amended *Subdivision Rules*, now herein and hereafter entitled *Community Rules*, were formally adopted by the Board of Directors of the Tanoan Community Association, Inc. on the 15<sup>th</sup> day of March 2012.**

**ATTEST:**

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**Stephen Bonner, President**  
**Board of Directors**

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**Paul Skojec, Secretary**  
**Board of Directors**