

COVENANT ENFORCEMENT AND FINE POLICY
FOR
Five Points POA, LLC

Whereas, the board of directors (“*board*”) of Five Points POA, LLC, a Texas non-profit corporation (“*Association*”), is empowered to govern the affairs of the Association pursuant to Article V of the Declaration of Covenants, Conditions and Restrictions for Five Points POA, Bonham, Fannin County, Texas, Recorded documents of the official records of Fannin County, Texas (“*Declaration*”), the Bylaws of the Association (“*Bylaws*”), and the Texas Business Organizations Code; and

Whereas, the declaration affects certain parcels or tracts of real property in the city of Bonham, Fannin County, State of Texas (“*Property*”); and

Whereas, pursuant to the authority set forth in the Declaration and Bylaws, the Association, acting by and through the Board, has the authority to enforce the provisions of the declaration, the power to promulgate and enforce provisions of the declaration, including establishing and imposing reasonable monetary fines or penalties for the violation of the association’s dedicatory instruments, including, but not limited to, the Declaration, the Bylaws, rules and regulations, policies, or design/architectural guidelines (*collectively, the “Governing Documents”*); and

Whereas, the Board has and does hereby find the need to establish rules, regulations, and procedures for the enforcement of the restrictions contained in the Governing Documents for the elimination of violations which may be found to exist within the property.

Whereas, the Developer has not yet released full control to the board as required by Section 7.2 of the Declaration the Developer executes this document on behalf of the Board.

Now Therefore, It Is Resolved that the following rules, regulation, and procedures relative to the operation of the Association are hereby established for the enforcement of violations of the governing documents and for the eliminations of such violations found to exist in, on, or about the Property (hereinafter referred to as the “*Enforcement Policy*”)

1. **Establishment of a Violation.**

a. **Failure to Obtain Prior Approval.** Any addition, improvement, modification, and/or repair of any kind or nature erected, placed, or altered on any Lot which (i) requires the prior approval of the improvement by the Architectural Control Committee (the "ACC" as defined in the Declaration) and (ii) has not been first approved by the ACC is deemed a "Violation" under this Enforcement Policy for all purposes.

b. **Failure to Abide by the Governing Documents.**

- (i) Any construction, alteration or modification to any improvement on a Lot which does not in all respects conform to that which has been so approved, or any activity or condition allowed to continue or exist on any Lot that is in direct violation of the Governing Documents is also deemed a "Violation" under this Enforcement Policy for all purposes.
- (ii) Any violation of the Governing Documents or noncompliance of a deed restriction covenant is deemed a "Violation" under this Enforcement Policy for all purposes.

c. **Common Violations.** Exemplar violations are outlined in Exhibit 1 titled "Common Violations". This is not an exhaustive list of Violations.

2. **Notification.**

a. **Initial Notice (Courtesy Notice).** Upon verification of the existence of a Violation by the Association or management company representative ("*Management*") of the Association, the Association may, but is not required to, send to the Owner a written notice of the existence of the Violation ("*Initial/Courtesy Notice*"). The Initial/Courtesy Notice will generally inform the Owner of the following:

- (i) The nature, description, and location of the Violation; and
- (ii) What needs to be done to cure the Violation, and provide notice that the Violation must be cured within a maximum of fourteen (14) days^{1,2} of the date of the Initial/Courtesy Notice to avoid further enforcement measures, unless an alternative cure period is established by the Board; and
- (iii) A statement that if the Violation has already been cured, remedied, corrected, or plans and specifications for the subject improvement have been submitted to the ACC, to disregard the notice.

1 For purposes of this Enforcement Policy, the term "days" shall mean calendar days.

2 The Board may require certain Violations be cured within three (3) days from the date of the letter.

The Association may, but is under no obligation to, send additional Courtesy Notice(s). In addition to first-class mail, a Courtesy Notice may also be sent by electronic mail, if an electronic mail address has been provided by the Owner. It is the responsibility of the Owner to update the Association with regards to any address, telephone number, or electronic mail address changes.

b. **Notice of Violation.** If the Owner has (i) failed to submit plans and specifications for the offending improvement or modification to the ACC, or the ACC has denied the approval of plans and specifications initially submitted, (ii) failed to cure a Violation within the prescribed cure period referred to in section 2(a) of this Policy, and/or (iii) the Board has decided to forego a Courtesy Notice for this particular Violation, then the Association shall send to the Owner written notice ("*Notice of Violation*") informing the Owner of the following:

- (i) The nature, description, and location of the Violation and notification that if the Violation is corrected or eliminated by a specific date (not number of days), no further action will be taken; and
- (ii) Notification that if the Violation is not corrected or eliminated by the date specified in 2(b)(i), any attorney's fees incurred by the Association in eliminating or abating the Violation, and any violation fines imposed as determined by the Board, shall be charged to the Owner's account; and
- (iii) Notification of the proposed sanction to be imposed and amount due the Association, if any, and a brief description of what needs to be done to cure the Violation; and
- (iv) If necessary, work on any improvement not designed to cure the Violation must cease immediately and may not resume without the prior written approval of the ACC; and
- (v) Failure to remedy the Violation or cease work on any unauthorized improvement will result in the Association electing to pursue any one or more of the remedies available to the Association under the Governing Documents, this Enforcement Policy, and/or applicable law; and
- (vi) In the event the Violation is deemed to be an incurable violation or violation posing a threat to health or safety, as reasonably determined by the Board, the Association is not required by law to provide an opportunity to cure and may impose an immediate fine. The following are examples of acts considered incurable: (1) shooting fireworks or discharging a firearm; (2) (3) a noise violation that is not ongoing; (4) damaging Association property, including the removal or alteration of landscape; and (5) holding a garage sale or other event prohibited by a dedicatory instrument; and

- (vii) His/her right to assert and protect his/her rights as a member of the Armed Forces of the United States. The protected individual or family member shall send written notice of the active-duty military service to the sender of the Notice of Violation immediately; and
- (viii) His/her right to make a written request for a hearing on or before the thirtieth (30th) day after the Notice of Violation is mailed, *i.e.*, thirty-three (33) days after the date of the Notice of Violation. The hearing, if one is requested in a timely manner, will be held before the Board.

The Notice of Violation shall be sent to the Owner by certified mail, return receipt requested, and first-class U.S. mail. The Owner shall be responsible for administrative and postage fee expenses in delivering notices under this Enforcement Policy. **In** addition to the foregoing delivery methods, the Notice of Violation may also be sent by electronic mail, if an electronic mail address has been provided by the Owner. It is the responsibility of the Owner to update the Association with regards to any address, telephone number, or electronic mail address changes.

c. Failure to Remedy and Notice of Fine. Failure to (i) submit complete plans and specifications showing that the Violation will be remedied, (ii) cease all non-remedial work immediately upon receipt of the Notice of Violation, and/or (iii) remedy the current Violation existing upon the Lot within fourteen (14) days of the date of the Notice of Violation, shall constitute a continuing Violation and result in one or more of the following: (a) the imposition of violation fines as determined by the Board against the Owner, (b) the suspension of the right to enter upon and/or use any recreational facilities within the Common Area(s), and/or (c) the pursuit of any other remedy available at law or in equity, under the Governing Documents or this Enforcement Policy including, but without limitation, the recording in the County Clerk's office of a Notice that the Lot in question is in violation of restrictive covenants or an action for injunctive relief and civil damages. The Association may, but is under no obligation to, send a notice to the Owner in the form of a formal written notice of fine ("*Notice of Fine*") informing the recipient of the continuing Violation and the remedy chosen as a result thereof. The date of the Notice of Fine shall be the "*Notice of Fine Date*."

d. Fine Structure. Unless otherwise provided herein, any single fine imposed pursuant to the provisions of this Enforcement Policy may not exceed \$500.00 as determined by the Board and an Initial Fine of not less than \$50.00 may be imposed for failure to remedy or cure the Violation. In the event the Owner fails to respond or comply by remedying or curing the Violation within fourteen (14) days after the Initial Fine, additional fines may be imposed as follows:

Curable Violations	
Initial Fine	\$50.00
Second Fine	\$100.00
Third Fine	\$200.00
Fourth and Subsequent Fines	\$400.00
Uncurable Violations and Violations	

<u>Which Pose a Threat to Public Health or Safety</u>	
Fine	amount not to exceed \$2,000.00

<u>Unapproved ACC Modifications</u>	
Initial Fine	\$100.00
Second Fine	\$200.00
Third Fine	\$400.
Fourth and Subsequent Fines	\$500.00

Fines and the frequency of fines, as determined by the Board, may be imposed every day that the Violation continues to exist after the Notice of Fine date. There shall be no limit to the aggregate amount of fines that may be imposed for the same Violation. The Owner may be notified by the Association, in writing, of the amount of fines accrued to Owner's account. The Board may modify, from time to time, the schedule of fines. The Board reserves the right to adjust these fine amounts based on the severity and/or frequency of the Violation(s).

3. Right to a Hearing Before the Board of Directors. If the Association receives a written request for a hearing on or before the thirtieth (30th) day after the date of the Notice of Violation, the Board shall hold a hearing no later than the thirtieth (30th) day after the date the Association received the written request for a hearing. The Association shall notify the Owner of the date, time, and place of the hearing no later than the tenth (10th) day before the date of the hearing. The notice of hearing may be sent by electronic mail, if an electronic mail address has been provided by the Owner, first-class mail, and/or certified mail. The Board or the Owner may request a postponement and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may only be granted by agreement of the parties. The Owner's presence is not required to hold a hearing under this paragraph. The Association or Owner may make an audio recording of the hearing.

Not later than ten (10) days before the Board holds a hearing, the Association shall provide to the Owner a packet containing all documents, photographs, video evidence, and communications relating to the matter which the Association intends to introduce at the hearing ("*Evidence Packet*"), if any. If the Board intends to produce any documents, photographs, videos, and communications during the hearing, and does not send an Evidence Packet to the Owner in a timely manner, the Owner is entitled to an automatic fifteen (15) day postponement of the hearing. At the commencement of the hearing, a member of the Board or the Association's designated representative shall present the Association's case against the Owner. Following the presentation by the Board, the Owner or the Owner's designated representative is entitled to present the Owner's information and issues relevant to the appeal or dispute. The Owner or the Board may make an audio recording of the hearing. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed by the Board. The Board shall notify the Owner in writing of its action within ten (10) days after the hearing. The Board may, but shall not be obligated to, suspend or reduce any proposed sanction if the Violation is cured within the ten (10) day period. Such suspension and/or reduction shall not constitute a waiver of the right to sanction future Violations of the same or other provisions and rules by any Owner.

Prior to the hearing, proof of proper notice of the hearing shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by an Officer, Director or agent who delivered such notice. The notice requirement shall be satisfied if the Owner appears at the meeting. The minutes of the meeting shall contain a statement of the results of the hearing and the sanction(s), if any, imposed.

4. Corrective Action (Self-Help). Notwithstanding the provisions contained in Paragraph 2 hereof, where a Violation of the Governing Documents is determined to exist pursuant to any provision of this Enforcement Policy, Management, with the approval of the Board and pursuant to the authority granted in the Association's Governing Documents, may undertake to cause the Violation to be corrected, removed or otherwise abated by qualified contractors if the Association, in its reasonable judgment, determines that such Violation may be readily corrected, removed, or abated without undue expense and without breach of the peace. Where Management is authorized by the Board to initiate any action by qualified contractors, the following shall apply:

a. The Association, through Management, must first provide the Owner with a Notice of Violation as provided above. Should the Violation not have been remedied by the Owner within fourteen (14) days from the date of the Notice of Violation, then the Association must give the Owner, and any third party directly affected by the proposed action, prior written notice of the undertaking of the action ("*Notice of Corrective Action*"). The Notice of Corrective Action shall be sent to the Owner by certified mail, return receipt requested, and first-class U.S. mail, and include an opportunity for the Owner to cure the Violation prior to the undertaking of any corrective action.

b. Any cost incurred in correcting or eliminating a Violation shall be charged to the Owner's account.

c. The Association, the Board, and its agents and contractors shall not be liable to the Owner or any third party for any damages or costs alleged to arise by virtue of action taken under this Paragraph 4 where the Association, the Board, its agents, and contractors have acted reasonably and in conformity with this Enforcement Policy and the Governing Documents.

5. Referral to Legal Counsel. Where a Violation is determined to exist by the Board pursuant to any of the provisions of this Enforcement Policy and where the Board deems it to be in the best interests of the Association, the Board may, at any time and without prior notice to the Owner under the Enforcement Policy, refer the Violation to legal counsel for purposes of seeking to correct or otherwise abate the Violation, including an action for injunctive relief and/or civil damages against the Owner, or any other legal or equitable remedy that may be available to the Association.

6. Notices.

- a. Any notice required by this Enforcement Policy to be given, sent, delivered, or received, in writing, will be deemed given, sent, delivered, or received (as applicable) based on the following:
 - (i) When the notice is delivered by electronic mail, the notice is deemed delivered and received when the sender "sends" the electronic mail and receives a confirmation or report acknowledging the time and date it was delivered. It is an Owner's duty and responsibility to keep an updated electronic mail address registered with the Association.
 - (ii) When the notice is placed into the care and custody of the United States Postal Service, the notice is deemed delivered and received as of the third day after the notice is deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association. Any Notice of Violation or Notice of Corrective Action shall be sent certified mail, return receipt requested, and First-Class U.S. Mail.
- b. Where the Lot is occupied by a tenant or where the interests of an Owner have been handled by a representative or agent of such Owner, any notice or communication from the Association or Management pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to the Owner at the address on record with the Association. The Association may, as a courtesy, also provide notice to the tenant.

7. **Cure of Violation During Enforcement.** An Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy. Upon verification by the Association that the Violation has been corrected or eliminated, and any fines imposed by the Board have been paid, the Violation will be deemed to no longer exist, and the Notice of Violation shall be voided except as hereinafter provided. The Owner shall be advised by the Association of the consequences of the future Violation of the same provision of the Governing Documents as set forth in the following paragraph. The Owner will remain liable for all fines levied under this Enforcement Policy, which fines, if not paid upon written demand thereof by the Association, will be referred to the Association's legal counsel for collection. The Board, however, in its sole and absolute discretion, reserves the right to suspend or waive some or all fines imposed. The suspension or waiver of fines shall not constitute a waiver of the right to sanction Violations of the same or other provisions and rules by any person.

8. **Repeated Violation of the Same Provision of the Governing Documents.** Whenever an Owner, who has previously cured or eliminated a Violation after receipt of a Notice of Violation, commits a separate Violation of a similar provision of the Governing Documents within six (6) months from the date of the Notice of Violation, the Association shall reinstate the Violation, including the fines previously imposed related to such Violation that were waived by the Board, and pursue the procedures set forth herein as if the Violation was never cured or eliminated. For purposes of illustration only, in the event the Owner cured the Violation after having received an Initial/Courtesy Notice, the second Violation of the same provision shall

prompt the Association to send a Notice of Violation. Similarly, in the event the Owner cured the Violation after having received a Notice of Violation, the second Violation shall prompt the Association to send a Notice of Fine as provided hereunder. In the event an Owner cured the Violation after having received a Notice of Fine, the second Violation shall prompt the Association to commence the levying of violation fines without further notice to the Owner. In the event of a repeated Violation, the Board shall be authorized to double the fine amount.

9. **Payment of Violation Fines.** Payment of the violation fine amount does not imply or constitute a waiver of enforcement or the granting of a variance for the Violation. All Violations must be corrected and brought into compliance with the Governing Documents. If there is a subsequent Violation of a similar rule, the fine amount will be imposed pursuant to the Fine Structure provision. Failure to pay fines may result in a lien on the Owner's Property. The Owner shall be responsible for any fines and enforcement costs assessed on the Property. If applicable, it is the Owner's responsibility to pursue reimbursement of the fines from the tenant(s).

10. **Authority of Management To Act.** The Board hereby authorizes and empowers Management to do all such things and perform all such acts as are necessary to implement and effectuate the purposes of the Enforcement Policy and compliance with Texas Property Code Section 209.0051(h), including the levying of violation fines, without further action by the Board. Notwithstanding the foregoing, the Board and Management agree to use best efforts to regularly communicate so Management can expeditiously effect any changes or requests made by the Board on behalf of the Association for any Enforcement Policy terms and provisions the Board has the authority to affect or change.

11. **Binding Effect.** The terms and conditions of this Enforcement Policy, as may be amended from time to time by the Board, shall bind all Owners including their heirs, successors, transferees or assigns, and all Lots as defined in the Declaration, and the Property shall hereafter be held, occupied, transferred, and conveyed subject to the terms and conditions of this Enforcement Policy, as amended by the Board.

This Enforcement Policy is hereby adopted by resolution of the Board and replaces and supersedes, in all respects, all prior policies and resolutions with respect to the enforcement of Violations by the Association, and shall remain in force and effect until revoked, modified, or amended by the Board.

12. **Definitions.** The definitions contained in the Association's Governing Documents are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Board or Declarant has caused the Enforcement Policy to be effective and executed by its duly authorized representative as of the August 1, 2024.

Five Points POA

A Texas non-profit corporation

By: Jessica Dauvoort
Its: Secretary