

**CERTIFICATE OF ADOPTION
OF
RULES AND REGULATIONS FOR
FINING AND ENFORCEMENT PROCEDURES FOR
VIOLATIONS OF THE GOVERNING DOCUMENTS
OF
MILLICAN RESERVE COMMUNITY FOUNDATION**

STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF BRAZOS §

WHEREAS, the Board of Directors (the “Board”) of Millican Reserve Community Foundation, a Texas non-profit corporation (the “Foundation”) is charged with administering and enforcing the Master Declaration of Covenants, Conditions, Restrictions, Reservations, Easements and Rights for Millican Reserve dated October 27, 2015, and recorded on October 30, 2015, in the Real Property Records of Brazos County, Texas, under Clerk’s File Number 2015-1247518 (as may be supplemented and amended from time to time, the “Declaration”) encumbering Millican Reserve (the “Community”); and

WHEREAS, Article IX, Section 9.05 of the Declaration provides that the Board may promulgate and impose fines for a violation of the Foundation’s Bylaws (the “Bylaws”), the Declaration, the Design Guidelines (as defined in the Declaration and herein so called), and any Rules (as defined in the Declaration and herein so called); and

WHEREAS, Article VII, Section 7.02 of the Declaration provides that that such fines shall be secured by the continuing lien set out in the Declaration; and

WHEREAS, the Board desires to adopt rules and regulations regarding fining and enforcement procedures for violations of the Bylaws, the Declaration, the Design Guidelines, and any Meadows Rules and to set the amount of such fines; and

WHEREAS, Article __, Section __ of the Bylaws provide that two (2) directors shall constitute a quorum of the Board; and

WHEREAS, the Board held a meeting on _____, 2022 (the “Adoption Meeting”), at which at least two (2) directors were present and such directors present duly passed the Rules and Regulations for Fining and Enforcement Procedures for Violations of the Governing Documents described herein below (the “Fining Policy”);

NOW, THEREFORE, to give notice of the matters set forth herein, the undersigned, being the President of the Foundation, does hereby certify that at the Adoption Meeting, at least two (2) directors were present and such directors present duly adopted the Fining Policy. The Fining Policy is effective upon recordation of this Certificate in the Official Public Records of Brazos County, Texas. The Fining Policy is as follows:

1. **Violations.** An action is initiated under this Fining Policy when the management company for the Foundation, a member of the Board, or other Foundation volunteer notes a violation of the Declaration or other governing documents. The Foundation's management company is authorized to send the owner any or all notices described in this Fining Policy.

2. **Initial Notice.** The Foundation shall send one (1) or more notices ("Initial Notice") by regular mail advising the owner of the violation and requesting that the violation be cured. However, if the Foundation decides that the violation requires expedited handling, the Foundation is entitled to dispense with sending the owner any Initial Notice. All notices described in these this Fining Policy shall be sent to the owner at the owner's last known address, as shown on the records of the Foundation. Owners are responsible to inform the Foundation of their current address for notices.

3. **Certified Notice.**
 - a. If the violation is not cured pursuant to the Initial Notice (or if the Foundation has decided not to send any Initial Notice), the Foundation shall send a notice (the "Certified Notice") to the owner by certified mail, return receipt requested, describing the violation and if the violation is of a curable nature (*See examples of uncurable and curable violations set forth in Sections 209.006[h] and [i] of the Texas Property Code*), demanding that the violation be cured.

 - b. The Certified Notice will inform the owner that the owner has a period of thirty (30) days from receipt of such notice to request a hearing before the Board regarding the violation.

 - c. For violations of a curative nature (*See examples of uncurable and curable violations set forth in Sections 209.006[h] and [i] of the Texas Property Code*) and which do not pose a threat to public health or safety as reasonably determined by the Board, the Certified Notice will: (i) allow the owner a reasonable period to cure the violation and avoid the Foundation levying a fine and/or pursuing legal action; and (ii) will inform the owner that if the violation is not cured and the owner does not request a hearing within thirty (30) days from receipt of such notice, the Foundation intends to levy a fine against the owner in an amount as provided for in this Fining Policy (and state such fine amount) and that the Foundation intends to examine pursuit of its other remedies.

- d. The Certified Notice will inform the owner that the owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501, *et. seq.*), if the owner is serving on active military duty.

Notwithstanding the foregoing, if the Foundation has given the owner notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months, or if the Foundation files a suit seeking expedited relief in the form of a temporary restraining order or a temporary injunction, the Foundation shall not be required to send the owner a Certified Notice.

4. **Hearing.** If the owner makes a timely written request for a hearing, a notice shall be sent to the owner informing the owner as to the date, time, and place for the hearing before the Board. The hearing will be conducted in accordance with such rules and procedures as may be deemed appropriate by the Board. The hearing shall take place even if the owner does not attend the hearing.
5. **Remedies.** If the owner does not make a written request for a hearing before the Board within the above-described thirty (30) day timeframe (and if the violation has not been cured if the violation is of a curative nature as described in Section 209.006[i] of the Texas Property Code), the Foundation may thereafter pursue its remedies. If a hearing is conducted pursuant to a proper request, the Foundation may pursue its remedies regarding an uncured violation after the conclusion of the hearing, unless the Foundation has made an agreement to the contrary. Such remedies include levying a fine and/or turning the matter over to an attorney for legal action. Even if the Foundation levies a fine against the owner, the Foundation reserves the right to turn the matter over to an attorney for legal action. If this becomes necessary, it is contemplated that the Foundation will instruct the attorney to pursue the Foundation's legal remedies, including filing suit.
6. **Fines and Costs.** The amount of the fine to be levied by the Foundation for any incurable violation is \$250.00. The amount of the fine to be levied by the Foundation for any curable violation is \$25.00 per day until the curable violation has been cured. Uncurable violations typically occur at a specific point in time (*i.e.*, a noise violation that is not ongoing). A curable violation is a violation that typically occurs over a period of time (*i.e.*, a maintenance violation). The Foundation also reserves the right to increase the amount of the fine for a given violation, if deemed appropriate by the Board due to the severity, seriousness, extent, repeated or wrongful nature of the applicable violation. In addition to the fine, the Foundation may recover reasonable costs incurred by the Foundation pursuant to Section 204.010(a)(11) of the Texas Property Code.
7. **Charges to Owner's Account.** Any fines, attorneys' fees, and cost incurred by the Foundation as a result of a violation will be charged to an owner's account. Fines levied shall constitute a lien against the offending owner's property.

8. **Miscellaneous.** The Foundation will not send any notice to the owner in a situation in which the Foundation seeks expedited relief in the form of a temporary restraining order or a temporary injunction. In such situations, the Foundation reserves its rights to file suit and seek such relief from the court without any prior notice to the owner and/or occupant.

EXECUTED on the date of the acknowledgment set forth herein below, to be effective upon recordation in the Official Public Records of Brazos County, Texas.

**MILlican RESERVE COMMUNITY
FOUNDATION**, a Texas non-profit corporation

By: _____
John E. McFarlane, Jr., President

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on _____, 2022, by John E. McFarlane, Jr., President of Millican Reserve Community Foundation, a Texas non-profit corporation, on behalf of said entity.

Notary Public, State of Texas

WHEN RECORDED, RETURN TO:

Mark K. Knop
Hoover Slovacek LLP
Galleria Tower II
5051 Westheimer Rd., Suite 1200
Houston, Texas 77056