

# PINEDALE SHORES PROPERTY OWNERS ASSOCIATION

## POA RULE ENFORCEMENT POLICY AND PROCEDURE

Approved and Effective on: March 17, 2025

This policy is adopted to comply with applicable Alabama laws supplements the Association Articles, Deed Restrictions, and Association Bylaws. If this policy and procedure conflicts with any Alabama State guidance, the State guidance controls.

1. Enforcement Procedure. The Association will not impose fines or commence legal action for violations of the governing documents until after the POA has followed the procedures set forth below. The POA Board will endeavor to levy substantially the same penalties for substantially similar infractions regardless of previous but different infractions by the same owner or occupant.
2. Reports of Violations. Any Owner may submit a written complaint by email or first-class mail, with information of a nuisance, hazard, or rule violation to the Association Board by specifically referencing a violation of a deed restriction, Rule, Bylaw, or other governing document. The Association will not consider oral or anonymous complaints or complaints that do not specify the published rule or restriction being violated. Members of the Board or the Rules Committee have no authority to address complaints outside of Board meetings or Rules Committee hearings.
3. Enforcement. The Board will create a Rules Committee of no less than 3 members of the POA Board but may not include any Officers of the Board. The Rules Committee will:
  - A. Receive all reports of violations from the Board and promptly verify through visual observation whether written complaints have merit.
  - B. The Rules Committee will make verbal reports to the Board on each open violation during each executive session of the Board.
  - C. Rules Committee reports will comply with and will be entered into the Board Meeting minutes under “committee reports” in substantially the following form:

“The Rules Committee is dealing with # confirmed violations at different stages in the enforcement process. Since the last Rules Committee Report to the Board, the Committee has received # new reports and # of them were verified. The violation reports that were verified included:

    - i. A report of (*description of infraction citing violated rule and Lot Number and Section*) and the Rules Committee verified an ongoing violation or violation that is "continuing in nature." The Rules Committee recommended the Board issue a Notice of Violation providing the Owner 7 days to address the violation and to include in such notice the fines and/or penalties that would be levied on the property and its Owner if the violation was not eliminated. The

Board Approved the recommendation of the Rules Committee and directed the Rules Committee to send written Notices of Violation to the offending property Owner and to follow the Rules Enforcement Policy until the violation is cured.”

(Repeat section i. for each new violation.)

D. Notices of Violation, nuisance, hazard, or rule violation will be sent to the Property Owner’s address on record with the POA. This Notice may be drafted and sent by the Rules Committee when directed by the Board. The Association may also provide a copy of the notice to any non-Owner considered to be in violation of a POA rule.

E. The written notice of violation will describe: (i) the nature of the violation; (ii) the action or actions required to cure the violation; (iii) fines or penalties that may be imposed; (iv) the right to, within 7 days, appeal the Rules Committee decision through a hearing with the Officers of the POA Board, and that they may have an advocate or legal representation, (v) notice that if the appeal hearing upholds the Committee decision that there was a violation, that all penalties including daily fines will be enforced from the date of the notice of violation that imposed the fines and penalties and a fee for the hearing of \$150 will be assessed to the property owner and the owner’s property and all fines and fees will be added to the Owner’s account balance with the Association.

F. To comply with Alabama law, a notice is deemed received when sent by and according to the following timelines:

- Email - Upon successful transmission of electronic mail;
- First-Class Mail - 3 business days after mailing; or,
- Posting - Upon physical posting at the Owner's Lot;

G. Board members / Committee members will not hand-deliver notices or engage potential violators outside of official meetings.

H. If a violation has not been cured 10 days after mailing the Notice of Violation, the Rules Committee, under the auspices of the POA Board, will send a Second Notice of Violation imposing the fine and penalties stated in the first Notice of Violation. If the Owner cures the violation within 10 days of the second notice, the penalty may be rescinded by the Committee if the violation was not “continuing in nature.

I. Ten days after the second Notice of Violation was mailed, the Rules Committee will inspect and confirm whether the violation has been cured. If the Committee determines that the violation has not been cured, the Association, through the Rules Committee, may impose additional repeating daily fines, send additional notices, contract for the violation to be cured and assess that cost to the Owner and the Property, and commence legal action and bill the expense of the property owner and the property. The Association may not commence “self-help curative action” or legal action until 30 days have elapsed since the second notice was given.

4. Public Safety, Nuisance, Hazard, and Health Situations. Upon the Association diligently determining that a situation or violation threatens public safety or health, the Association will post on the property and mail the Owner a written Notice of Violation informing the Owner that the Owner has 72 hours to cure the violation, or the Association may notify health authorities, impose a reasonable fine, revoke Association rights and privileges, file a lawsuit, or take self-help actions to abate the

hazard. This type of situation may include but is not limited to sewage discharge, lake contamination, animal infestations, nuisance affecting neighboring properties, or dangerous or hazardous conditions regarding lots or buildings.

A. If the cited condition has not been abated after 72 hours from posting and mailing of notice, the Association will determine if the violation has been cured. If the situation has not been cured the Association may impose all penalties and fines available against the property owner and occupant up to but not including restricting access to their lot. This includes hiring or contracting to have the hazard or nuisance abated and costs assessed to the owner and the property.

B. Due to the nature of these types of violations which may be considered civil torts, the Association may commence legal action with no delay if necessary to abate the nuisance or hazard.

5. Additional Required Notices. When an Owner cures a violation, the Association will notify the Owner of any outstanding fine balance owed to the Association, and that the Owner will not be further fined with regard to that violation.

6. Request for Hearing. If an Owner desires a hearing to appeal the Rules Committee determination that there is a violation, the Owner must request the hearing, in writing, prior to the 10-day deadline stated in the Notice of Violation. The request for an appeal hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a request for a hearing is not made within 10 days of mailing the Notice of Violation, the right to a hearing is deemed forever waived. If an appeal hearing is requested by the deadline but the offending owner does not appear, the hearing board will convene and determine if there was a violation based upon the information available to it, and if so, deny the appeal, confirm the Rules Committee finding and apply the \$125 hearing charge against the Property Owner and the Property.

7. Conflicts. Any Owner who requests a hearing or their advocate or legal representation may ask that any one officer be silent during the Appeal hearing to ensure the hearing will be a fair and impartial process regarding a complaint. Additionally, any Board member may recuse themselves from all proceedings related to a hearing for good cause and with 3 days' notice. If necessary to maintain 3 officers for the Appeals hearing the presiding officer will appoint a Board Member to serve as a temporary member of the Appeal hearing board.

8. Hearings. The Board will inform the Owner and their designated advocate or representation of the scheduled time, place, and date of the requested Appeal hearing by first-class mail. The Association may send additional copies of the notice by certified mail; email; text message to a cellular number that the Association has on file and/or hand-delivery.

A. The Appeal Hearing is to be an executive session of the POA Board and conducted by the three officers of the POA. Complaining parties do not have the right to attend the Appeals hearing. The Owner may present evidence, testimony, and witnesses and the Rules Committee chair will present evidence in support of the Rules Committee's decision in the matter.

B. Hearings are held by the three officers of the POA Board and may be conducted during or subsequent to any cures being in place or during or after any applicable cure period(s). The hearing is intended to be scheduled as soon as practical, but the presiding officer may grant continuances for good cause.

C. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted.

D. The Appeals decision will be based on the matters set forth in the notice of alleged violation, request for hearing, and evidence as may be presented at the hearing.

9. Decision. After all testimony and other evidence has been presented to the Appeals hearing board, it will render its written findings and decision, and impose penalties if applicable, upon expiration of any applicable cure period(s). A decision either finding for or against the Owner will be by a majority vote of the POA Appeals board and only the violation, verdict, and penalties will be recorded in the next Board Meeting Minutes and referred to only by Lot number.

10. Penalties. Alabama law empowers the POA to assess reasonable penalties against a member for any violation of rules adopted by the board of directors after the member is afforded the opportunity to be heard and represented by counsel before the board of directors. The amount of any monetary penalty assessed under this section shall be considered an assessment and enforceable the same as the annual assessment (dues.) The amount and nature of penalties and restrictions placed on offending property owners is determined considering the nature of a lake-front community, the maturity of the Pinedale Shores neighborhood, the value of the Association property being protected, and other relevant factors related to the nature of Pinedale Shores and its Association.

11. A violation is considered "continuing in nature" if the violation is uninterrupted by time or it occurs and is abated but reoccurs. E.g. a repeated but inconsistent violation such as parking on the weir, operating a boat without an Association sticker, blocking a road, or allowing a trash buildup on property.

12. For any violation that does not threaten public safety or health and is continuing in nature, the Association may impose fines in the amount of \$25 per day after notice and opportunity to appeal until the violation is abated.

13. The Association may impose a fine every other day in the amount of \$100 for violations that threaten public safety or health until the violation is cured. If the POA is forced for safety reasons to cure the hazard, the entire reimbursement cost will be assessed to the owner.

A. Self-help Remedies. After notice and an opportunity for a hearing (except in the case of emergency) the Association or its duly authorized agent has the authority to abate or remove any structure, thing, or condition that violates the governing documents, is a nuisance or hazard outside the contemplation of the governing documents or violates a deed restriction or POA published rule. All costs of self-help will be assessed against the owner and their property.

B. Suspension of Rights to Use the Common Areas. After notice and an

opportunity for a hearing, an Owner's right to use the Common Areas may be suspended if the Owner is in violation of the governing documents and rules; suspension is automatic and does not require notice for nonpayment of assessments (dues).

C. Suspension of Right to Vote. Ten days after the notice of violation if an Owner has not appealed the Rules Committee decision and requested a hearing, an Owner's right to vote is automatically suspended; suspension of voting rights is also automatic without notice for nonpayment of assessments (dues) by 60 days.

14. Failure to Enforce. The Association's failure to enforce the governing documents is not a waiver of the right to enforce for any other or subsequent violations.

15. Administrative Expenses. Enforcement costs, imposed by the Association or its managing agent, related to any hazard or nuisance abatement or rule enforcement will be the obligation of the Owner and may be posted to the Owner's account. Examples include but are not limited to certified mailings, printing or copying costs, or costs to translate a notice.

Approved by Board on \_\_\_\_\_

Minutes Approved by President of the Board on \_\_\_\_\_

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President or executive officer of the POA Board