



**Pine Mountain Estates
Property Owners Assoc., Inc.**

POA Covenant & Rule Enforcement Policy

Contains Enforcement Action
And Monetary Penalties

Approved
by
Pine Mountain POA, Inc.
Board of Directors

December 10, 2017

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Pine Mountain Property Owners Association, Inc.

POA Covenant & Rule Enforcement Policy

As Board Members in a covenant-protected Community, we recognize the real and perceived value of our Community centers around reasonable and consistent property standards. We further recognize a very important part of the consideration prospective property owners make when selecting a Community in which to live and invest in, is the condition, quality and curb appeal of the Community they are considering.

To standardize the quality and level of maintenance and care afforded a Community, the original Community Developer establishes Declarations. As a Community, we supplement those Declarations with more specific standards of care and behavior with rules and regulations and/or architectural control guidelines.

In a perfect world, Owners and residents would fully and timely comply with all of the requirements and responsibilities necessary in our Community. We understand, realistically, covenants and other standards of behavior are necessary for those few individuals who choose not to conform to and comply with the documents those individuals originally agreed to abide by.

Enforcement action and monetary penalties are sometimes necessary to garner cooperation and follow through from Owners who chose to violate the laws of our Community. Inaction regarding violations of our governing documents can lead to conditions that cost all Owners far more than the reasonable fines and penalties the Association may consider.

Based upon these very important circumstances, we agree to approve the following enforcement policy for any and all violations of our Declarations/Covenants, rules, regulations or guidelines that the Board has not previously addressed in writing:

**Resolution Of
Pine Mountain Property Owners Association, Inc.
Regarding Policies and Procedures for Covenant and Rule
Enforcement**

Subject: Adoption of a policy regarding the enforcement of covenants, rules and procedures for the notice of alleged violations, conduct of hearings and imposition of fines.

Purpose: To adopt a uniform procedure to be followed when enforcing covenants and rules and to facilitate the efficient operation of the Association.

Authority: Articles of Incorporation, The Declaration and By-laws of the Association, General Guidelines and Policies of Pine Mountain Estates and North Carolina Law, but not limited to, G.S 47F-3-107.1 and G.S. 47F-3-116

Effective Date: **December 10, 2017**

Resolution: The Association hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

1. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or a committee Member(s) by submission of a written complaint.
2. Complaints. (a) Complaints by Owners or residents shall be in writing and submitted to the POA Office. A written complaint is not required if the Alleged violation can be independently verified by the Association. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Violator"), if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any pertinent information.

Complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association. (b) Complaints by a member of the Board of Directors, a committee member, or the Manager, if any, may be in writing or any other means deemed appropriate by the Board if such violation was observed by a Board Member or the Manager.

3. Investigation. Upon receipt of a complaint by the Association, if any additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Committee, in relationship to the complaint. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

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4. Courtesy Letter. If a violation (other than a delinquency) is found to exist, a courtesy letter shall be sent to the Violator explaining the nature of the violation. The Violator will have 10 days from the date of the letter to come into compliance. The Association may modify any dates for compliance as may be appropriate given the nature of the alleged violation.

4a. Serious/Immediate Risk Violations. When a violation concerns a serious immediate situation for person or property the board will seek to obtain prompt action by the alleged violator to correct and avoid any recurrence.

Examples include violations of Pine Mountain's governing documents including General Guidelines for Members and their guests. The board will seek to contact the owner or other violator, and a hearing scheduled as soon as possible.

5. Continued Violation After Initial Courtesy Letter. If the alleged Violator does not come into compliance within 10 days of the first courtesy letter. A second letter (Notice of Hearing) shall then be sent to the alleged Violator, providing notice and a date, time and place for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. The Notice of Hearing must be served in person or sent by certified mail. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter. The Association may modify any dates for compliance as may be appropriate given the nature of the alleged violation.

5a. Irreversible Violations. When a violation has occurred, which cannot be mended immediately, the board will seek to notify the owner of a hearing that may determine the amount of a possible fine, or other action, for the violation.

Examples include unapproved additions, landscaping, et cetera. The board will seek to contact the owner or other violator to schedule a hearing as soon as possible.

5b. Repeat Violations. If a violation recurs after a fine or other action has been imposed, no courtesy notice will be made, and such violation may trigger an Immediate Notice of Fine Letter of the repeat violation.

6. Hearing. A hearing shall be held before the Board of Directors or an Adjudicatory Panel. At the beginning of each hearing, the presiding officer, shall introduce the case by describing the alleged violation and the procedures to be followed during the hearing.

- Establish total time allowed for each hearing.
- Establish who may speak and when, i.e., when may members, alleged violator and complainant(s) ask questions. The Chair may wish to withhold questions until hearing all parties – depending on the circumstances.
- Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement.
- After testimony and questions, the Chair will advise when their decision will be provided.

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- The Chair shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing.
 - The Chair may issue a verbal decision at the hearing. In which case, those found to be in violation, may be issued a verbal deadline for compliance.
 - After all testimony and other evidence has been presented at a hearing. The Board will render a decision with a written response.
 - Neither the Complainant nor the alleged Violator are required to attend the hearing.
 - The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances.
 - Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners.
7. Appeals. The Violator may file a written notice of appeal with the President or Manager of the Association of any adverse decision of the Adjudicatory Panel within ten (10) days after receiving a copy of the written statement of the results of the hearing.
8. Conflicts. Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the President of the Association prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. *If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may not vote.*
9. Notification of Hearing Decision. The Board shall, within a reasonable time, not to exceed 45 days, render its written findings and decision, and impose a fine, if applicable. The fine to be imposed shall be no more than \$75/day for a first violation, or the cost incurred by the Association in abating the violation, whichever is greater. Repeat violations may result in a fine of up to \$100/day. A decision, either a finding for or against the Owner, shall be by a majority of the Board members present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.
10. Fine Collection. All fines shall be due and payable upon notice of the fine and will be late if not paid within 10 days of the date that the Owner is notified of the imposition of the fine. All fines and late charges shall be considered an assessment that may be secured by a lien and will be collected as set forth in the Declaration and the Association Due's (assessment) collection policy. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Declaration and North Carolina law, including the Association's right to collect attorney fees as authorized by North Carolina law.

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11. Suspension of Privileges and/or Services. Membership and Associate Membership rights of any person or entity whose unit of PM property is subject to Pine Mountain's governing documents and those set by the State of North Carolina, whether or not he/she is personally obligated to pay such assessments, may, by action of the Association, be suspended from Membership during the noted violation period.

Additional actions may occur, depending on the severity of the violation.

- A lien placed on your property
- Appearance in small claims court
- Judgement proceedings
- Foreclosure proceedings
- Loss of voting rights
- Loss of water, trash and other services, if applicable
- Loss of free golf course privileges
- Reporting to various credit bureaus

12. Legal Action. The Association, at any time, may pursue legal action against an Owner to enforce the provisions of the Declaration, By-laws, rules or resolutions without first following the preceding notice and hearing procedures, if the Board determines that such action is in the Association's best interests.
13. Failure to Enforce. Failure of the Association to enforce the Declaration, By-laws, rules and resolutions will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any of the above referenced governing documents for the Association.
14. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the violator coming into compliance with the Declaration, By-laws or rules.
15. Supplement to Law. The provisions of this resolution shall be in addition to and in supplement of the terms and provisions of the Articles of Incorporation, Declaration of Covenants, Conditions, and Restrictions, adopted rules, Resolutions and North Carolina Law.
16. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its Articles of Incorporation, Declaration of Covenants and Restrictions, By-laws, and current North Carolina Law. The use of this process does not preclude the Association from using any other enforcement means.
17. Amendment. This policy may be amended from time to time by the Board of Directors.

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Additional Association's Guidelines for Due Process

The overall objective of the enforcement process is to achieve compliance. It will never be considered an income generating strategy for this association. The association shall also be generous with first time violations that are quickly brought into compliance.

Once the matter is turned over to the association's counsel to compel the violating owner or resident to comply with the governing documents they agreed to, the board will direct all conversations, correspondence, inquiries, and discussions to its Law Firm.

The amount of fine shall be commensurate with the violation. It will be fair and consistent across the board for every resident, for each type of violation. If a "per day" fine is imposed, the Violator is solely responsible to notify the Board when the Violation is corrected, before any Fines or other actions shall or will be stopped.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of the Pine Mountain Property Owners Association, a North Carolina nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on December 10, 2017 and in witness thereof, the undersigned has subscribed his/her name.

PINE MOUNTAIN PROPERTY OWNERS ASSOCIATION, INC.
a North Carolina non-profit corporation,

By:  _____
President

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