

PAGOSA LAKES PROPERTY OWNERS' ASSOCIATION
COVENANT AND RULE ENFORCEMENT POLICY AND FINE SCHEDULE

Effective Date: August 10, 2022

This policy is adopted to comply with the terms of the Colorado Common Interest Ownership Act ("CCIOA") which contains provisions that may conflict with the terms of the Association's governing documents. CCIOA and this policy will control over any conflicting provisions in the governing documents.

1. Enforcement Procedure. The Association will not impose fines, suspend rights to vote, suspend rights to use recreational facilities, or commence legal action for violations of the governing documents until after the Association has followed the procedures set forth below.

Compliance with the procedures set forth below is not required for the following: late charges on delinquent assessments, suspension of voting rights and rights to use the recreational facilities if an Owner is shown on the Association's records to be delinquent in payment of assessments, in which case suspension will be automatic.

2. Inspections and Complaints. Community Liaisons will conduct periodic inspections of the Subdivisions and facilities to determine compliance with the governing documents (Declarations, Articles of Incorporation, Bylaws, Rules and Regulations, Project Permit Process, Resolutions). In addition, Community Liaisons will investigate written complaints submitted by Owners or reported by the Association's Board or Committee members. The Association has no obligation to consider oral or anonymous complaints. The DCS Manager will determine whether a written complaint is justified before continuing with any enforcement action or the notice and hearing procedures.

3. Notice of Violation.

A The Association will send a written notice of any asserted violation of any provisions of the governing documents to the Owner in accordance with this policy. The notice will describe: (i) the nature of the violation; (ii) the action or actions required to cure the violation; (iii) any fines that may be imposed; (iv) the right to request a hearing to contest the violation or possible fine; and (v) if a hearing is requested, a date by which such request must be received and a timeline for the hearing process ("Notice of Violation"). Prior to this Notice of Violation, a Community Liaison may attempt to contact and/or meet with an Owner through less formal means, including, but not limited to, a courtesy letter, in-person visit, door hanger left on site, phone call, or email.

B. Notices from the Association required by this Resolution will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version, but due to nuances in translating to a foreign language, slight differences may exist. Translated notices are a type of administrative expense that may be posted to the Owner's account pursuant to Section 16 of this policy.

C. An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the Owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.

D. For the purpose of this policy to comply with Colorado law, a notice is deemed received when sent by and according to the following timelines:

i. Email or text - Upon successful transmission of electronic mail or text;

- ii. Certified Mail/First-Class Mail - 3 business days after deposit for delivery;
- iii. Posting - Upon physical posting at the Owner's Property; or
- iv. Actual Notice - Upon hand-delivery.

4. Violations That Threaten Public Safety or Health.

A. If the Association reasonably determines that a violation threatens the public safety or health, the Association will send the Owner a written Notice of Violation informing the Owner that the Owner has 72 hours to cure the violation, or the Association may impose a fine.

The written notice may be sent by any of the following means: first-class mail; certified mail; email; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or hand-delivery.

B. After 72 hours from receipt of notice, the Association will inspect the Property and determine whether the violation has been cured. If the Owner has not cured the violation, the Association may impose fines on the Property Owner every other day in accordance with the fine schedule below until the violation is cured and/or commence legal action to enforce the governing documents and cure the violation.

C. Violations of rules related to the following may be considered to be violations that threaten public safety or health:

- i. Fishing, Boating, and Lakes
- ii. Recreational Fires
- iii. Discharge of Firearms or Projectiles (examples include, but are not limited to, arrows, darts, pellet/BB guns, etc.)
- iv. Use of Explosive or Aerial Fireworks

D. Many types of violations that threaten public safety or health, including, but not limited to, recreational fires, discharging firearms, and shooting a bow and arrow, are limited in duration rather than taking place over a continuous period of time up to 72 hours or more. If the Association determines that an Owner has committed such a violation again after the first Notice of Violation, then the violation has not been cured and the Association may impose a fine of \$500 per occurrence rather than treating it as a new violation. Similarly, if such a violation occurs on a property used as a Vacation Rental, and the initial violator is a tenant rather than the Owner, the Owner will be responsible for ensuring that the violation does not occur again with subsequent tenants. If it does, the Owner will not have cured the violation and the Association may impose a fine of \$500 per occurrence.

5. Violations That DO NOT Threaten Public Safety or Health.

A. If the Association reasonably determines that a violation occurred, other than a violation that threatens the public safety or health, the Association will send the Owner a Notice of Violation informing the Owner that the Owner has 30 days to cure the violation, or the Association, after conducting an inspection and determining that the violation has not been cured, may impose a fine. The Notice of Violation must be sent by certified mail, return receipt requested. The Association may send additional copies of the notice by first-class mail, email, and/or hand-delivery.

B. After 30 days, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Property within 7 days of the initial 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may

impose the fine stated in the Notice of Violation and will send a second Notice of Violation with a second 30-day cure period.

C. After the second 30-day cure period, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Property within 7 days of the second 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may send additional notices and opportunity to cure, and/or commence legal action. The Association may not commence legal action until a second 30-day cure period has elapsed.

D. If an Owner cures the violation within the required cure period, the Owner may notify the Association in writing, including visual evidence that the violation has been corrected. If the Owner provides visual evidence of the cure, the violation will be deemed cured on the date the Owner sends the notice. If the Owner does not provide visual evidence of the cure, the Association will inspect the property as soon as practicable to determine if the violation has been cured. If the visual evidence provided is insufficient for the Association to determine if a violation has been cured, at the Association's sole discretion, the Association will inspect the Property to verify the violation has been cured.

E. If a property changes ownership while the property is in a state of violation, the new owner will be responsible for bringing the property into compliance immediately. If the new owner is: (a) a family member of the prior owner; (b), a legal entity in which the prior owner or any family member of the prior owner has an ownership, membership, or other interest; or (c) a trust under control of or the benefit of the prior owner, any family member of the prior owner, or prior owner's family, then the new owner will remain subject to the progressive fines and enforcement action that began with prior owner. Any other new owner who did not request and obtain a status letter from PLPOA regarding violations prior to the conveyance may also be subject to the progressive fines and enforcement action that began with the prior owner. Other new owners who requested and obtained a status letter from PLPOA prior to the conveyance and who entered into a written agreement with PLPOA to correct the violation will be subject to fines and enforcement action as set forth in the agreement if the new owner fails to correct the violation. If the violation involves an incomplete project, the new owner will be subject to the procedures and extension fees as provided in the Project Permit Process.

6. Additional Required Notices. If an Owner cures a violation, the Association will notify the Owner: (i) of any outstanding fines and administrative expenses owed to the Association, and (ii) that the Owner will not be further fined with regard to the original violation. However, except as provided in Section 4.0 above, if the Owner (or anyone for whom the Owner is responsible) violates the same provision again within a 12-month period, the original violation will not be deemed cured, the violation may be subject to a fine, and the Association may issue the second required notice with the second cure period. Another failure to cure may result in legal action.

7. Request for Hearing. If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the Notice of Violation. The request for hearing must describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived.

8. Hearing Panel to Conduct Hearing. The Hearing Panel will hear and decide cases set for hearing pursuant to the procedures set forth in this policy.

9. Conflicts. Any Owner who desires a hearing will be afforded a fair and impartial fact-finding process by "impartial decision makers" (persons with authority to make a decision or recommendation on a claimed covenant, rule, or architectural violation and without a direct personal or financial interest in the outcome of the hearing). Any decision-maker who is incapable of objective and disinterested consideration will disclose this to the presiding officer prior to the hearing, if possible. If advance notice is not possible, the disclosure will be made at the hearing, and the decision-maker will be disqualified from all proceedings

related to the hearing. If disqualification of any decision-maker results in an even number of individuals eligible to hear a case, the presiding officer may postpone the hearing until another member of the Hearing Panel can attend.

10. Hearings. The Association will inform the Owner of the scheduled time, place, and date of the requested hearing by any of the following means: first-class mail; certified mail; email; or hand-delivery. Hearings may be conducted during or subsequent to any applicable cure period(s). The presiding officer may grant continuances for good cause. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The 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. Unless otherwise requested by the Owner, all hearings will be conducted privately between the Hearing Panel and the owner. If a complaining party is unable to attend the hearing, the complainant may submit a letter to the Hearing Panel explaining the basis of the complaint.

11. Decision. After all testimony and other evidence has been presented to the Hearing Panel, it will render its written findings and recommendations, including whether to impose a fine, if applicable, upon expiration of any applicable cure period(s). A recommendation, either a finding for or against the Owner, will be by a majority vote of the members of the Hearing Panel. The recommendation of the Hearing Panel will be sent to the Board for review during executive session at its next regular meeting. The Board may accept, modify or reject the Hearing Panel's recommendation. The Association's administration office will inform the Owner of the Board's decision within 15 business days after the scheduled Board of Director's Meeting, by first-class mail.

12. Appeals. An Owner may request to appeal the Board's decision by submitting a written request within the 15-day period after the Board's decision on the Hearing Panel's recommendation. The matter will be placed on the agenda for the next regular Board meeting for consideration if the following conditions exist:

A. The circumstances that brought the finding of a violation were cured after the cure period expired (as determined by inspection by PLPOA);

B. New evidence is brought to light not heard by the Hearing Panel and/or the Hearing Panel review was improper; or

C. There were circumstances not known by PLPOA which may have affected the decision made.

If these conditions are met, the Board will schedule the appeal to be heard at their next scheduled executive session. Any fines and administrative expenses will be placed in abeyance until the case can be heard by the Board. The Board's decision with respect to the appeal will be final.

13. fine Schedule.

A. Limitation on Fines. With the exception of violations that threaten public safety or health, CCIOA provides that the total amount of fines imposed for each violation of the governing documents may not exceed \$500. In accordance with limitations set forth in CCIOA, the Association has adopted the following schedule of fines. These fines supersede and replace any existing fines greater than \$500 adopted prior to the date of this policy.

B. General Fine Schedule. Unless otherwise specified in the governing documents, the following fines may be imposed for each violation of the governing documents occurring within a 24-month period (If three Notices of ANY Violation are issued to a property within a 12-month period, whether the Notices were related to the same violation or different violations, the property will be subject to a \$500 fine as a Repetitive Nuisance).

A Notice of Violation may be sent for any first violation. Additional or subsequent violations of the same provision occurring within 24 months from the date of the first Notice of Violation will be considered repeat or recurring violations, subject to additional fines as set forth above. After the 24-month period without any reoccurrence of the same violation, any subsequent occurrence of the same violation will be treated as a new first violation.

Category 1 violation \$50

Category 2 violation: \$100

Category 3 violation: \$200

Unauthorized improvements/deviating from approved plans: In addition to other types of Category 3 violations, beginning an improvement without a permit or deviating from approved plans constitutes a single violation and carries a Category 3 fine. Because of the nature of this type of violation, the Notice of Violation will instruct the Owner to stop work immediately and to submit all required documentation for review and approval within 30 days of the Notice. *There* is a \$200 fine for each violation. In addition, the Owner may be required to remove any improvement constructed before or after the Notice of Violation if the plans are not approved.

Category 4 violation: \$500

Tree Removal Without Approval: Each tree greater the 3" in diameter removed without approval constitutes a single violation. There is a \$500 fine for each violation/each tree. In addition, each tree must be replaced with a tree of substantially similar size.

Category 5 violation (includes Vacation Rental Property violations): \$500

- (i) Failure to register a Vacation Rental Property with PLPOA within 15 days following the date of issuance of a Vacation Rental Permit from Archuleta County: \$500

C. Continuing Violation Fine Schedule. In addition to the fines noted in Section 40 above, 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. The Association reserves the right to impose fines that total more than \$500 for violations that threaten public safety or health until the violation is cured.

D. Vacation Rental Fine Schedule for Vacation Rental Violations of the Abbreviated Rules. The Association has adopted the Abbreviated Neighborhood Rules and Regulations for Vacation Rentals in recognition that Properties used as short-term rentals have frequent turnover of occupants and that the violating occupant has often left the Property before notice can even be provided or any cure period has expired. Therefore, the Property Owner is responsible for ensuring that any and all occupants of the Property remain in compliance, and all violations are attributed to the Owner even if associated with or committed by multiple short-term tenants. The violation set forth in any Notice of Violation will not be deemed to be cured if another tenant violates any of the Abbreviated Rules and may be subject to a fine of \$500 as a Category 5 violation. If three Notices of Violation are issued to a property within a 12-month period, the Property will be subject to a \$500 fine as a Repetitive Nuisance.

14. Recorded Notice of Violation. The Board may issue and record with the Clerk and Recorder a Notice of Violation.

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

16. Administrative Expenses. Enforcement costs imposed by the Association related to covenant and 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 or costs to translate a notice to a language other than English.

17. Suspension of Privileges. Any outstanding violation or fines, costs, or attorney's fees due will result in loss of "Member in Good Standing" status and suspension of privileges, including voting, lake use permits, and use of the Recreation Center and Clubhouse. While remaining "Not in Good Standing," building permits, variances, and other requests for building through the Department of Community Standards and the Environmental Control Committee will be deemed incomplete and denied, pending payment of the aforementioned costs.

18. Suspension of Fishing and/or Boat Use Permit(s). The Association will suspend any Owner's or Property's Fishing and/or Boat Use Permit(s), as appropriate, for one year for any violation of the rules for Fishing, Boating and Lakes, regardless of whether the violation was a singular event or was an ongoing event and cured within 30 days.

Record of Revisions

Resolution 93-11 – Establish Procedures
Resolution 97-13 – Establish Procedures
Resolution 99-49 – Update Enforcement Procedures
Resolution 99-45 – Update Enforcement Procedures
Resolution 99-44 – Update Enforcement Procedures
Resolution 2012-05 – Establish Enforcement Policy
Resolution 2014-03 – Update Enforcement Policy
Resolution 2021-06 – Add Provisions for Vacation Rental Properties
Resolution 2021-15 – Update Provisions for Vacation Rental Properties
Resolution 2021-17 – Update Provisions for Vacation Rental Properties
Resolution 2022-01 – Revise Section 5
Resolution 2022-11 – Revise according to CCIOA

