

**BURNT STORE LAKES  
PROPERTY OWNER'S ASSOCIATION, INC.  
POLICY / PROCEDURE STATEMENT**

**ENFORCEMENT OF DEED RESTRICTIONS**

**Purpose:** To establish a policy and procedure for enforcement of Deed Restrictions.

**Scope:** Burnt Store Lakes is a deed restricted community and all deed restrictions are enforced by all members of the Board of Directors of the POA. The entire Board of Directors serve as managers of this enforcement, and shall report findings at the monthly Board of Directors meeting any and all violations, whether current or past, that are of immediate issue. In the interim of these monthly meetings, the Board of Directors shall have the authority and responsibility to carry out the following procedure:

**Procedure:**

**Section A**

1. The Manager will provide the Board of Directors one month in advance the name(s) a specific Director or Directors will perform the inspection for Deed Restriction violations. Every home and multiple occupant dwelling within the Association is to be inspected each month. If an assigned Director is unable to perform this duty during an assigned month, another Director will be designated to replace him/her.
2. All Directors performing the community monthly Deed Restriction Violation Review or a Director requested by the Manager to perform an inspection on a property will file any Deed Restriction Violation Report that will contain:
  - a. A minimum of one photograph for any Deed Restriction Violation observed during the inspection of the property.
  - b. A written description of each Deed Restriction Violation observed.
  - c. A photograph and/or description of any other observations associated with the property being inspected.
  - d. A written description of each Deed Restriction Violation observed.
  - e. Any comment regarding observations associated with the property being inspected.
3. The Manager will present to the BOD at the monthly meeting:
  - a. A list of all new and unresolved deed restriction violations.
  - b. A proposed date to conduct a Fining Committee Hearing.
4. The Board of Directors waives the first Deed Restriction Violation in every category for every homeowner in the Burnt Store Property Owner's Association.

## **Section B**

1. The procedure that the Board of Directors, the Association, and the homeowner or tenant, or his/her designated representative(s), will follow to resolve Deed Restriction Violations including the levying of fines is as follows:
  - a. When the Association receives a second, third, fourth, or more Deed Restriction Violation Report for any Deed Restriction category, the Association will notify the homeowner, tenant, or his/her designated representative(s) of:
    - (1) The date, time, and place that a Fining Committee Hearing will be conducted to Levy a fine.
    - (2) The right of the homeowner, tenant, or his/her designated representative(s) to examine the Deed Restriction Violation Report.
    - (3) The number of times a Deed Restriction Violation Report in that same category has occurred and the amount of the fine(s) and the due date of the fine(s) if the Fining Committee voted to levy fine(s) in the past.
    - (4) The right of the homeowner, or tenant(s) to be represented by counsel at the Fining Committee Hearing but that the BSLPOA will not be responsible for counsels' fees.
    - (5) Notification of homeowner(s) within the BSLPOA will be given 14 day' notice prior to the Fining Committee Hearing of the date, time and the location of the hearing.
    - (6) A notice of the Fining Committee Hearing Meeting will be posted at a conspicuous location on Association property.

## **Section C**

1. A member of the Board of Directors will conduct the Fining Committee Hearing.

Adopted: November 9, 2011

Amended: June 11, 2013

Amended: July 15, 2014

## **PROCEDURES FOR DEED RESTRICTION VIOLATION FINING HEARING**

- PURPOSE:** To provide a due process hearing in which a homeowner may contest a deed restriction violation and the subsequent levying of a fine as result of that continued deed restriction violation.
- COMPOSITION:** Those necessary at the hearing include a quorum (4) of the Board of Directors and all members of the Fining Committee.
- NOTICE:** Notice of the Hearing, through regular mail and certified mail, will have been provided to the alleged deed restriction violator 14 days in advance of the meeting and will have contained the violation(s), the date, time

and place of the hearing and information that the alleged violator has a right to counsel and to cross examine witnesses.

**PROCEDURE:**

1. The Board of Director members present will determine which of them will chair the hearing.
2. The hearing chair will call the hearing to order and introduce all participants.
3. The chair will state the purpose of the hearing and determine that proper notice was provided to the alleged violator and to the Association at large.
4. The Association will present its case with respect to the allegations for which it is seeking the fine.
5. The chair will ask if the alleged violator wishes to cross examine any of the witnesses.
6. The chair will then ask the alleged violator to present their case.
7. Following both presentations the chair will ask for a motion to levy the fine and include an appropriate amount.
8. If a fine is levied, the chair will then ask the Fining Committee members present to affirm the fine, veto the fine, or recommend a different amount for the fine.
9. The chair will summarize the events that took place during the hearing, including the hearing outcome, and then adjourn the meeting.
10. A notice of the hearing result will be sent to the violator indicating the outcome of the hearing and if a fine is levied the Notice of Levy will include a due date for payment. Failure to comply with a levy may be pursued in Small Claims Court.

Adopted: November 11, 2011

Amended: June 11, 2013

Amended: July 15, 2014

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**SCHEDULE A – Fining Committee Guidelines**

**Levying of Fines, Florida State Statute 720.305**

**DEED RESTRICTIONS: Levying of Fines, Florida State Statute 720.305****SCHEDULE A – Fining Committee Guidelines**

Florida Statute 720.305, effective July 1, 2010, permits a homeowners association to levy a fine against a homeowner for violations of the Declaration, Articles of Incorporation, By-Laws and the Rules and Regulations of the Association. The basic limitations and requirements are as follows:

- A fine may not exceed \$100 per violation.
- A fine may be levied on a daily basis for an on-going violation to a maximum of \$1,000.
- A property owner must be provided an opportunity for a hearing.
- The Board must appoint a “Fining Committee” of three (3) members. Members of the Fining Committee cannot be Board members and may not be related to Board members.

*While the Association may establish specific fines for specific violations, it is not necessary to set specific varying amounts, and the Association has the discretion to levy up to the maximum amount of \$100 fine for any and all violations.*

DR Violation Compliance	Timeframe: corrective action or plan	Letter / fine	2 <sup>nd</sup> letter / fine	3 <sup>rd</sup> letter / fine	Add'l letters / fine
Boats	48 hrs	1 <sup>st</sup> event, no fine	\$50	\$100	\$100
Fences	5 days		\$50	\$100	\$100
Home maint.	5 days		\$50	\$100	\$100
Landscaping	5 days		\$50	\$100	\$100
Lawn maint.	5 days		\$50	\$100	\$100
Parking	48 hrs		\$50	\$100	\$100
RVs	48 hrs		\$50	\$100	\$100
Trailers	48 hrs		\$50	\$100	\$100
Vehicles	48 hrs		\$50	\$100	\$100
Signs (over 6"x 8")	24 hrs		\$50	\$100	\$100
Garbage cans / recycle bins	24 hrs		\$50	\$100	\$100

*Fines may be levied against the property owner for violations by the owner, his family, tenants, guests and invitees. Once a fine is levied, the Association has the right to lien for fines that meet or exceed \$1,000. The Association has the right to pursue a small claims court action to collect the fine. If the Association is required to pursue legal action, then the Association is also entitled to recover reasonable costs. The Court is obligated by law to award reasonable attorney fees to the prevailing party.*

*Adopted July 12, 2010*

*Amended March 8, 2011*

*Amended November 9, 2011*

*Amended June 11, 2013*