

JERDONE ISLAND ASSOCIATION, INC.

POLICY RESOLUTION NO. 2024-01
(Procedures to Ensure Due Process in Enforcement Cases)

WHEREAS, Article III, Section 1 of the Amended and Restated By-Laws of September 18, 2020 (“By-Laws”) for Jerdone Island Association, Inc. (“Association”) provides that the Association’s Board of Directors (“Board”) “shall have all corporate powers granted by law to be exercised by, or under the authority of, the Membership;” and,

WHEREAS, Article II, Section 2 of the Corrected Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Jerdone Island (“Declaration”) empowers the Board to “establish, adopt, and enforce rules and regulations with respect to use of the Common Area and with respect to the provisions of this Declaration and such other areas of responsibility assigned to [the Association] by this Declaration and the By-Laws, except where expressly reserved by the Declaration to the Members;” and,

WHEREAS, Article III, Section 2(B) of the Declaration and Article I, Section 2(b) of the By-Laws authorize the Association to suspend the voting rights and rights to use of the recreation facilities as Common Area by an Owner for any period during which any Assessment against an Owner of a Lot, or Boat Slip Lease fee remains unpaid; and to suspend the right to use of the recreational facilities and Common Area for infraction of its published rules and regulations; and,

WHEREAS, Article III, Section 2(D) of the Declaration and Article I, Section 2(d) of the By-Laws authorize the Board to restrict usage of the recreational facilities and Common Area by an Owner for violation of safety rules, Common Area Usage Rules, or reckless behavior; and,

WHEREAS, Article V, Section 1(F) of the Declaration provides that the Board “may suspend an Owner’s voting rights, impose monetary charges, suspend other rights of Membership, or revoke a license agreement in the case of any Owner found to be responsible for a violation of this Declaration or rules or regulation[s],” upon notice and opportunity for a hearing in accordance with the Virginia Property Owners’ Association Act (“Act”); and,

WHEREAS, Section 55.1-1828 of the Act requires that all owners and all those entitled to occupy a lot must comply with the Act and all provisions of the association’s declaration; and,

WHEREAS, Section 55.1-1819(B) of the Act authorizes the board of directors to impose monetary penalties against an owner for violations of the declaration or any rules and regulations adopted pursuant thereto, and to suspend a delinquent owner’s right to use the facilities or services, including utility services, provided directly through the association for nonpayment of assessments which are more than sixty (60) days past due, to the extent that access to the lot through the common area is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant or occupant; and,

WHEREAS, Section 55.1-1819(D) of the Act authorizes the board of directors to assess charges for violations of the declaration or any rules and regulations adopted pursuant thereto in

an amount not to exceed fifty dollars (\$50) per offense, or ten dollars (\$10) per day for any offense of a continuing nature.

WHEREAS, for the benefit and protection of all Owners, the Board deems it desirable to formally adopt a resolution to assess monetary charges and suspend privileges, and to establish a procedure for enforcement of the rules and regulations of the Association which is consistent with principles of due process and Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the following due process and enforcement policies and procedures, which shall supersede and replace any previously adopted policies and procedures relating to the same subject:

I. COMPLAINT

A. Any Owner, tenant, management agent, or Board member may request that the Board act to enforce the Declaration, By-Laws, or the Association's rules and regulation by completing, dating and signing a Complaint in a form similar to and containing the information in **Exhibit A** hereto.

B. The Complaint shall be submitted to the Board to determine whether it appears that a violation has occurred. The Complaint may be submitted to the Board by way of delivery to the Association's management agent, if any.

C. Owners shall be legally responsible for ensuring that the occupants of their Lot and/or household, their family, guests, tenants, agents and contractors comply with the Declaration, By-Laws, and all duly adopted rules and regulations. The failure to ensure compliance shall subject the Owner to any action and any sanction as may be authorized by the Declaration, By-Laws, or by law.

D. No Complaint is necessary when the issue concerns an Owner's failure to pay assessments which are more than sixty (60) days past due as set forth in Section V below. In addition, the Board may, in its sole discretion, undertake enforcement proceedings in the absence of a Complaint if it otherwise becomes aware of a violation and determines that action thereon is required.

II. NOTICE

A. If determined appropriate, a written notice of violation, similar to the letter attached hereto as **Exhibit B**, should be sent by first class mail or hand-delivered to the offending Owner at the address the Owner is required to provide the Association or at the Lot address if no other address has been provided. A notice will typically be sent in response to a Complaint as described in Section I above, but the Board may, in its sole discretion, direct the issuance of a notice even in the absence of such a Complaint.

B. The notice shall specify the alleged violation, the action required to correct the violation, and a date, usually not less than ten (10) days after the date of the notice, by which the alleged violation must be remedied; provided, however, when the violation may constitute a health, safety

or fire hazard, demand may be made to remedy the violation within twenty-four (24) hours or such shorter time as the Board deems appropriate in its discretion.

C. The notice should state that if the violation is not remedied within the specified time, the Owner will be given an opportunity for a hearing before the Board to consider the imposition of charges and/or suspension of use rights, services, or privileges.

III. NOTICE OF HEARING

A. If the alleged violation is not remedied by the date or within the time specified in the notice referenced in Section II, the Owner should be sent a notice of hearing, similar to the letter attached hereto as **Exhibit C**. Notice of a hearing shall be hand delivered or mailed by registered or certified United States mail, return receipt requested, at least fourteen (14) days in advance of the hearing date, or within such other time as may be required by the Act, to the Owner at the address the Owner is required to provide to the Association, or to the Lot address if no other address has been provided. Service by mailing shall be deemed effective upon depositing the notice into a regular depository of the United States Postal Service.

B. The notice of hearing shall specify:

- (1) The time, date and place of the hearing.
- (2) That the Owner shall be given an opportunity to be heard and to be represented by counsel before the Board of Directors.
- (3) The alleged violation(s).
- (4) That charges for violations may include assessment of up to Fifty Dollars (\$50.00) for each single offense or Ten Dollars (\$10.00) per day for up to ninety (90) days for any offense of a continuing nature, or such greater amounts as may be authorized by the Act.
- (5) That other appropriate remedies may be taken, such as suspension of use of any facilities, services, or privileges, including suspension of parking privileges, and voting rights; and that the Association may elect to file suit against the Owner and as part of that suit may obtain an award of attorneys' fees and costs as part of the judgment against the Owner. The Board may take any action and impose any sanctions as may be authorized by the Declaration, By-Laws, or by law.

IV. HEARING

A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's discretion.

B. The Board, within its discretion, may grant a continuance for good cause shown, but no such continuance shall be required in any particular situation. If the Owner for which the hearing

is scheduled requests a different time or date, no further notice shall be required.

C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the Owner with an opportunity to be heard and to be represented by counsel. The hearing shall be conducted according to reasonable procedures, including time limits, established by the person presiding over the hearing.

D. The hearing may be conducted in executive session or in open session, subject to reasonable limits as the chairman of the hearing body may impose on the number of persons who can be accommodated in the hearing room. The Board, in its sole discretion, may determine to hold the hearing in executive session even if the Owner requests that it be open. During the course of any hearing held, the Board, within its discretion, may afford those residents involved with or affected by the dispute or violation an opportunity to be heard within reasonable time limits.

E. If the Owner fails to appear at the hearing after proper notice has been given, the hearing may continue as scheduled and the Board may, in the Owner's absence, assess charges, impose suspensions, or take such other action as may be authorized by the Declaration, By-Laws, or by law.

F. After having afforded the Owner with an opportunity for a hearing, if the Owner acknowledges responsibility for the violation charged or does not wish to contest the alleged charge or suspension, the Owner shall be deemed to have waived the opportunity for a hearing and the Board may, in its discretion, dispense with a hearing and impose any sanctions and take any action as may be authorized by the Declaration, By-Laws, or by law.

G. Within seven (7) days after the hearing, or such other time period as may be required by the Act, the Owner shall be notified in writing of the Board's decision, any suspension of voting rights and/or use of facilities or services, and the assessment of any charges and the date from which those assessments shall accrue and be due. Notice of hearing results shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the Owner at the address the Owner is required to provide the Association or at the Lot address if no other address has been provided.

V. NON-PAYMENT OF ASSESSMENTS

The Declaration, the By-Laws and the Act give the Association the power to suspend an Owner's right to use Common Area and facilities or services, including utility services, provided directly through the Association for nonpayment of assessments which are more than sixty (60) days past due, to the extent that access to the Lot through the Common Area is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner, tenant, or occupant.

Any Owner who is more than sixty (60) days past due on the payment of any assessments or portions thereof shall be provided with notice of such delinquency and the opportunity for a hearing as set forth above. Any Owner who fails to appear for a noticed hearing will be deemed to

have waived his/her right to a hearing and the Board may take further action thereafter in said Owner's absence.

Any Owner who is found to be more than sixty (60) days past due on the payment of any assessments or portions thereof may be subject to the suspension of access by said Owner, their occupants, tenants, and guests to facilities and services, including denial of access to parking and other facilities and services, and such other penalties as allowed by the Declaration, By-Laws and/or the Act, until all amounts due have been paid in full.

VI. RECORDS

Copies of all documents related to violations and hearings should be kept in the Owner's file or in a separate file for rules violations.

VII. ASSESSMENT OF CHARGES

Pursuant to the Act, any charges assessed for violations after notice and hearing shall be in amounts authorized by the Act and shall be treated as an assessment against such Owner's Lot for all purposes, including liens, and shall be the personal obligation of the Owner.

VIII. MISCELLANEOUS

The procedures outlined in this Resolution may be applied to all violations of the Declaration, By-Laws and/or the Association's rules and regulations relating to the use and enjoyment of the premises, payment and collection of assessments, and the personal conduct of the members and their guests, but shall not preclude the Association from exercising other enforcement procedures and remedies authorized by the Declaration, By-Laws, or by law, including, but not limited to, the initiation of suit or self-help remedies, and shall not constitute an election of remedies.

This Policy Resolution No. 2024-01 was duly adopted by the Board of Directors at a duly called meeting of the Board of Directors on this ____ day of _____, 2024, and shall supersede and replace any other previous resolutions pertaining to the same subject matter. The effective date of this Policy Resolution No. 2024-__ is _____, 2024.

JERDONE ISLAND ASSOCIATION, INC.

By: _____
Andrew Oman, President

RESOLUTION ACTION RECORD

I hereby certify that this Policy Resolution No. 2024-01 was adopted by a majority vote of the Directors at the Board of Directors meeting held on _____, 2024.

By: _____
Allan Perry, Secretary

CERTIFICATE OF PUBLICATION

I hereby certify that a copy of this Policy Resolution No. 2024-01 was posted on the Jerdone Island at Lake Anna Website (<https://www.jerdoneisland.org/>) ____ on this ____ day of _____, 2024 and notice of Policy Resolution No. 2024- ____ was published in Jerdone Islander 2024 # _____.

By: _____
Allen Perry

EXHIBIT A to Policy Resolution 2024-01:

**JERDONE ISLAND ASSOCIATION, INC.
VIOLATION COMPLAINT**

Name of person(s) violating rules/covenants: _____

Address of person(s) violating rules/covenants: _____

Is the person(s) named in question 1 tenants or owners? _____

When did the violation(s) occur? _____

Have you personally requested the owner or tenant to cease the violation?
Yes _____ No _____ Verbally _____ By written request. When? _____

Describe in detail how and where the rules/covenants were violated:

_____ Printed Name	_____ Signature	_____ Date
_____ Lot Address	_____ Telephone Number	_____ Email Address

FOR ASSOCIATION USE ONLY

Registered name(s) of Owner(s): _____

Lot Address: _____

Provision(s) of Governing Documents or Rule(s) violated: _____

Owner's address if non-resident: _____

Registered name(s) of tenant(s) _____

Comment(s): _____

Date notice sent to Owner: _____

Referred to Board on: _____

Date notice of hearing sent: _____

Date of hearing: _____

Date hearing result notice sent: _____

cc: Owner File, Rules/Covenants Violation File

EXHIBIT B to Policy Resolution 2024-01:

NOTICE OF COVENANTS VIOLATION - SAMPLE

[Date]

Via First Class Mail

Joe Sample

[Address of Record or Lot if none]

**Re: NOTICE OF COVENANTS VIOLATION
Jerdone Island Association, Inc.
Lot: [Lot Address]**

Dear Mr. Sample:

On behalf of Jerdone Island Association, Inc. (“Association”), I am writing to advise you that the Association has received a complaint regarding an alleged violation of the Association’s governing documents which must cease immediately. Specifically, this letter serves as notice that you are alleged to be in violation of the Association’s governing documents due to the following:

This violates the following provisions of the Association’s governing documents:

In order to abate these violations, you must take the following corrective actions no later than _____ days after the date of this letter:

Should you fail to bring your Lot into compliance with the Association’s governing documents within this timeframe, sanctions may be imposed after further notice and opportunity for hearing. At the hearing, the Board may consider assessing a charge of fifty dollars (\$50.00) per offense, or ten dollars (\$10.00) per day for any offense of a continuing nature for a total of ninety (90) days, pursuant to Section 55.1-1819(D) of the Virginia Code, suspending your privileges to use the Common Area or your voting privileges, or filing suit against you for injunctive relief.

You may respond within five (5) days after the date of this letter providing written acknowledgement that the violation occurred as alleged, setting forth the anticipated remedial action, and promising that the violation will henceforth cease and will not recur. Such shall terminate the enforcement activity of the Association with regard to this violation. Alternatively, you may advise me within five (5) days after the date of this letter of your intent to contest the alleged violation at a hearing before the Board.

Please be advised that the Association reserves all rights and remedies available to it under its governing documents and Virginia law, including but not limited to the imposition of monetary charges, suspension of privileges, and initiation of legal action, as necessary.

Thank you for your prompt attention to this matter. Should you have any questions or if I may be of any assistance, please do not hesitate to contact me.

Sincerely,

[Agent of Board Name]

[Address]

[Phone]

[Email]

EXHIBIT C to Policy Resolution 2024-01:

FINAL NOTICE OF CITATION – SAMPLE

[Date]

Via Certified Mail, Return Receipt Requested

Joe Sample

[Address of Record or Lot if none]

Re: NOTICE OF COVENANTS VIOLATION HEARING

Jerdone Island Association, Inc.

Lot: [Lot Address]

Date & Time:

Place:

[If electronic, include meeting link, meeting ID, passcode, and any information necessary to access the meeting]

Dear Mr. Sample:

On _____, I wrote on behalf of Jerdone Island Association, Inc. (“Association”) to advise you of an alleged violation of the Association’s governing documents due to complaints received of the following:

You were given ___ days to correct this violation; however, the violation remains uncorrected to date. Thus, you appear to continue to be in violation of the following provisions of the Association’s governing documents:

As a result, you are hereby notified that a hearing before the Board of Directors will take place on _____, 20__ at _____ p.m. and will be held at _____ (location). You may be represented by counsel at your own expense, and you will be given a reasonable opportunity to be heard. You may present relevant evidence and question witnesses in accordance with any procedural rules and time limits established by the Board of Directors. If you fail to attend the hearing, you will be deemed to have waived your right to a hearing and the hearing may be conducted in your absence. If you correct the violation prior to the hearing date, please advise me at the address below.

After the hearing, the Board will determine whether you are and remain in violation. Please be advised that the Board of Directors may consider assessing a charge of fifty dollars (\$50) per violation, or ten dollars (\$10) per day for ninety (90) days for a continuing violation, suspending your privileges to use the Common Area or your voting privileges, or filing suit against you to enforce the Association’s governing documents. Please note that, should legal proceedings be necessary, the Association will likely seek to recover its attorneys’ fees and costs.

Please be advised that the Association reserves all rights and remedies available to it under its governing documents and Virginia law, including but not limited to the imposition of monetary charges, suspension of privileges, and initiation of legal action, as necessary.

Thank you for your prompt attention to this matter. Should you have any questions or if I may be of any assistance, please do not hesitate to contact me.

Sincerely,

[Agent of Board Name]
[Address]
[Phone]
[Email]