

# The Reserve at Pinewood Lakes Policy Paper No. 5

**Effective Date:** January 1, 2020

**Last Revision Date:** November 13, 2019

Ratified: May 3, 2022

**CC&R References:** Phase 4: §4.4, §4.5 and §6.2; Phase 6: §3.4, §3.5 and §4.2

## **The Main Pond Landscape, Maintenance and Fence Policy**

**Preface:** The purpose of this policy is to outline the expectations and requirements for the landscaping, maintenance and access for Lot 71, Block 12 Pinewood Lakes Subdivision Phase 6 which is a Common Area lot that contains the large pond in "The Reserve".

**Background:** Lot 71, Block 12, Pinewood Lakes Subdivision Phase 6 is a Common Area lot that contains the large pond in "The Reserve." The pond is man-made, has a surface area of approximately 5 acres and encompasses most of Lot 71. There is a bank area varying in width from 0' to 8 feet wide from the normal high water mark surrounding the pond within the Common Area which is referred to as the riparian area in the CC&Rs. The pond water surface is accessible to all " Reserve" residents through Common Area Lot 65, Block 12 of Phase 6 on the east end of the pond. Access to the banks within the Common Area by HOA residents is a challenge due to the banks being steep and eroded away, and landscaping and fences installed without gates by some adjacent property owners. An aerial photo drawing showing the pond, bank areas and adjacent property is included as Attachment "A".

The pond was constructed by the original developer to provide fill for raising the lots above the floodplain, to provide gravel for the construction of the subdivision, and to provide an amenity to the subdivision. Following construction of the pond in approximately 2003, but prior to any homes being built around the pond, the bank area was covered with cattails and weeds and had a very steep bank that was sloughing off in places into the pond due to its steep slope. The bank was generally not accessible to walk around. As homes started being constructed in 2004, the adjacent property owners made improvements to the bank (riparian) area adjacent to their lots in the form of rock retaining walls to prevent the sloughing and placed sand and/or rock on the beach area to eliminate weeds and to allow pond access and improve their view. It is estimated each property owner invested an average of \$10,000 for these improvements. In addition, as stated earlier, some adjacent homeowners have

installed side yard fences without gates that extend to the pond edge and restrict access to the bank area. No HOA funds have been used to develop or maintain the bank portion of the pond Common Area.

The CC&Rs for Phase 4 and 6 address the pond bank area (Phase 4, §4.3, §4.4, §4.5 and §6.2; Phase 6, §3.4, §3.5 and §4.2). Specific CC&R language related to these issues is stated below:

*"The Reserve Common Area along the Waterways shall be planted in a combination of natural grasses, trees and shrubs, for bank protection and fish/wildlife habitat."*

*"Fencing shall be allowed to extend to the edge of Waterways; however, any fence constructed in the riparian area shall have a gate with a minimum of five (5) feet in width to provide access by the Reserve Association."*

*"Each Pond Adjacent Lot includes a ten (10) foot riparian setback from the ordinary high water mark..."*

*"The Board of the Reserve Association and/or the Committee shall adopt rules regulating landscaping permitted and/or required in such riparian setback on the Pond Adjacent Lots bordering Waterway Ponds."*

*"Additional building and maintenance requirements shall be imposed upon all Pond Adjacent Lots of the Reserve Property by the Reserve Association and/or the Committee, and all landscaping and any change in Improvements of such lots requires advance approval of the Committee."*

*"The Reserve Waterway Ponds, including the ten (10) foot riparian setback from the ordinary high watermark of such Waterway Ponds, shall be kept in an undeveloped and natural setting for the purpose of protecting and preserving wildlife and fishery habitat along and around the Waterway Ponds."*

This Common Area presents challenges for the Reserve Homeowners Association (HOA) Board. Many of the first homes built adjacent to the pond, during the period the developer controlled the HOA, did not strictly follow the requirements of the CC&Rs in terms of keeping the riparian area in a natural state and having gates thru the fences installed in the riparian area. Additionally, treatment of the ponds to control algae and pond weeds is a significant expense and homeowners that do not have pond frontage sometimes question whether this cost is fair for them to share.

In response to these concerns the Reserve HOA Board has adopted the following requirements/positions:

- 1. Riparian Setback Landscaping:** The adjacent property owner is responsible for maintaining the landscaping in the riparian area adjacent to their lot. All improvements in the riparian area must be approved by the Design Review Committee (DRC) prior to constructing the improvement. Improvements must be finished in wetlands, beach sand, decorative rock and/or natural vegetation. It is strongly encouraged that at least 50% of the lot frontage be maintained with natural vegetation at the edge of the water to provide fish and wildlife habitat and a filter for nutrients, fertilizers and pesticides that may wash into the pond.
- 2. Riparian Area Access:** It is the Board's general consensus that access along and within the riparian area has always been restricted. Prior to homes being built, the riparian area was heavily vegetated with cattails and weeds and had very steep banks which made it very difficult to walk along the pond banks. After homes have been constructed and riparian landscaping changes made, access along the pond is still a challenge. This is due to the fences and steep

banks remaining in several places along the pond. Additionally, most of the landscaping installed is not designed for heavy foot traffic and would be damaged and become a maintenance burden for the adjacent property owner. For these reasons, riparian area general access is not promoted by the Board.

The board does believe, however, that access should be allowed when needed for maintenance purposes to either the pond or the irrigation lines adjacent to the ponds. Therefore, any new fences installed in the riparian area must have the five (5') foot gates as required by the CC&Rs. For existing fences without gates, the property owner must remove a fence panel within 48 hours when requested by the HOA to allow access for maintenance purposes or immediately in the event of an emergency. If the property owner does not comply with this provision, the fence will be removed by the HOA and approval for reinstalling the fence will require the addition of the five ( 5) foot gate.


- 3. Pond Maintenance:** The HOA is responsible for general control of pond aquatic weeds and algae in the pond. This is generally done by use of chemicals. Recognizing the expense and environmental concerns of chemical use, however, this general maintenance is not expected to fully control the pond weeds and algae at all times of the year. The adjacent property should expect some pond algae and some pond aquatic weeds. Additionally, the adjacent property owner is responsible for removal of trash and algae accumulation on the pond banks adjacent to their property. Manually raking or netting the algae is considered the best way to control the algae and to remove nutrients accumulated by the algae.


Policy No. 5 - Attachment "A"



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Ratified May 3, 2022 by The Reserve at Pinewood Lakes HOA Board.

  
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William Kinard, President

  
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