

# Enforcement of Governing Documents

Zapata Homeowners Association

**Policy # 026.00**

**Policy Topic: Enforcement of Governing Documents**

**Committee: Governance**

Effective Date: December 19, 2008

New X

Revised

**Authority** ZHA Bylaws 08/2007, ARTICLE V Board of Directors, Section 1. Role of the Board: The role of the board of directors is to enforce all governing documents... Section 3. Board Policies: The Board shall have the authority and duty to develop, interpret, and enforce policies which are consistent with these bylaws, covenants, and public laws. ARTICLE X, Enforcement of Covenants, Bylaw, and Policies, Section 1. Duty to Enforce: The ZHA shall have the duty to enforce the covenants, bylaws and policies in a consistent and equitable manner. Section 2. Violations: The Board shall have the responsibility and authority to establish policies and assess fines against property owners who are in violation of the covenants, bylaws, and policies. Such fines must be defined in policy and provided to the membership.

· **Purpose** To preserve and promote harmony, public safety, and the natural beauty of the subdivision by enforcing the governing documents of the ZHA.

## Policy

### TIMETABLE

<u>Event</u>	<u>Action</u>	<u>Time period</u>
Complaint received	Committee Chairman attempts to verify	1 week
Committee Chairman verifies	Informal notification to property owner	2 days
Committee Chairman can't verify	Formal notification to complainant	5 days
Complainant wants to pursue	Formal notification to Board	5 days
Board can not informally reach	Make formal notification violator	5 days
Violator responds to Board	Makes/proposes corrections, requests hearing	14 days
Hearing scheduled meeting		2 <sup>nd</sup> monthly board  after formal notification
Resolution		1 <sup>st</sup> board meeting
Following hearing Notification to all parties	Board mails decision/conditions	5 days from resolution date

## VIOLATION:

Alleged violations of the ZHA governing documents may be reported by telephone or in person, but must be followed up in writing by letter, email, or facsimile. The responsible committee chairman will attempt to verify the allegation within one week. If the alleged violation cannot be verified, the Board will notify the complainant in writing within five days letting them know they have a right to request a hearing to present their case.

Should the complaint be anonymous and unverifiable, it shall be dropped. If the violation is unverifiable and the member alleging the violation does not want to pursue the action, the action will be dropped.

Any complaints that have the appearance of harassment shall not be pursued. Any two anonymous, unverifiable complaints against an individual will necessitate that any further complaints not be anonymous.

## NOTIFICATION

Within two days of verifying the complaint, an attempt will be made by a Board member to informally notify the alleged violating property owner to discuss the allegation. If the alleged violation is corrected after the informal notification, it shall be noted in the minutes of the next board meeting.

If this informal contact is not possible, or the informal contact results in further action being necessary, or in situations where the allegation cannot be verified but the complainant wishes to pursue the matter, within five days the board shall notify the alleged violating property owner by hand delivery or return receipt mail of said allegation. This notification will contain:

- how the Board was informed of the alleged violation
- description of the alleged violation
- the restatement of the governing rule or policy being violated
- action that must be taken to remedy the situation
- Board actions that may be taken if the violation is not corrected within a set time limit
- the possible fine
- the opportunity for a hearing before the Board to defend himself
- the consequences if the violator does not remedy the situation or appear at this hearing

A copy of this letter will also be sent to the complainant.

The alleged violating property owner shall have fourteen days to correct the alleged violation, propose a correction for the alleged violation, or request a hearing.

HEARING: (there is no hearing unless the ‘defendant’ requests one. The Notification letter should not be sent unless there appears to be enough evidence to determine that a violation occurred)

The alleged violating property owner will be allowed to request a hearing with the board to explain the violation and any matters of extenuation or mitigation. The board will also present its case therein. If the Board receives the notice of the alleged violation from a ZHA member,

that member shall be invited to attend the hearing. If the complainant is the only witness to the violation, he/she must attend the hearing or the violation shall be dismissed.

All hearings shall be recorded and be made part of the ZHA official record. The date of the hearing shall be the second monthly board meeting following delivery of the formal notification. The location of the hearing will be in Alamosa County, Colorado.

## RESOLUTION

When all evidence is in, the Board will make their determination no later than the first board meeting following the hearing. A two-thirds (2/3rds) majority decision of the board must be reached to determine substantiation of the violation. The Board shall notify the violator within five days about this decision by a formal letter sent via return receipt mail with the following information:

- no violation determined or
- restatement of the rule being violated
- the set time limit the violation has to be stopped or corrected
- the actions that will be taken if the violator refuses a correction
- the fine, if determined
- A time limit in which to pay the fine
- the actions that will be taken if the fine is not paid within the time limit

Failure of the owner to make restitution and/or correct the issue may result in, but not be limited to, lien filing, stop work order, and/or corrective action taken by the ZHA and subsequent charges to the owner for the corrective action. The fines schedule at attachment 1 lists the pecuniary liabilities.

Corrective action shall be tracked at monthly board meetings under Old Business.

Notice of ongoing or concluded proceedings will be published in the next newsletter to advise the membership of the occurrence.

**Board Approved:** November 21, 2008

**Board Chairman:** John White

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(signature)

**Membership Notified Date:** January, 2009 by Web Posting, Newsletter

**Board Rescinded Date:**

**Board Chairman:**

(printed name)

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(signature)

**Membership Notified Date:**

**by**