



COVENANTS COMPLIANCE POLICY

RESOLUTION: The Wildwood Village Homeowners Association (“Association”), through the Board of Directors (“Board”), hereby adopts the following Covenants Compliance Policy.

AUTHORITY: The Association’s Bylaws, as amended, Declaration of Protective Covenants (“Covenants”), as amended, and the Colorado Common Interest Ownership Act (CCIOA), specifically Colorado Revised Statute 38-33.3-209.5.

EFFECTIVE DATE: May 1, 2014

PURPOSE: To establish and set forth a uniform and systematic procedure and parameters for receipt and processing of covenant violation complaints and the enforcement of covenant compliance. The Association will fairly and equitably apply the procedures of this policy to pursue resolution of covenant violations and complaints, in an amicable manner to the extent possible, to achieve resolution.

COVENANT COMPLIANCE PHILOSOPHY: The Association, through the Board of Directors (“Board”), is responsible to equitably enforce the provisions of the Covenants and applicable laws, for the protection of all owners and preservation of the quality of the community. The Association is centered on building cooperation among residents and minimizing rigid indiscriminate enforcement. To that end, the Association believes in pursuing a more amicable approach to complaint and violation resolution, utilizing legal avenues as a last resort, while following an established procedure which preserves the consistency with which covenant compliance and complaints are processed.

OWNERSHIP INTERESTS. Property owners are responsible for violations occurring on their property, whether committed by owners, tenants, or their guests. All notification and resolution efforts under this policy will be made directly with the owner(s) of record (“violator”).

DEFINITION OF A VIOLATION:

1. Architectural. Any structural improvement of any kind erected, placed, or altered on any lot, which has not been first approved in writing by the Architectural Control sub-Committee (ACC), which violates the restrictions in the Association’s governing documents and which has not received a variance approval, is deemed a “violation” under this policy.
2. Use Restrictions. Any use or condition on any lot that is in conflict with the restrictions in the Association’s governing documents, and which has not received a variance approval is deemed a “violation” under this enforcement policy.

PROCEDURES:

1. **Reporting Violations.** Any owner or resident within the community may file a complaint regarding alleged violations (“complainant”). Complaints must be submitted in writing to the Association via first class mail to the Association mailing address with a copy to the HOA Board President via first class mail or email. The complaint must identify the address of the alleged violation, the owner (if known) of the property where the violation is alleged, the date the alleged violation occurred or was observed, a description of the alleged violation, a reference to the specific provisions in the Association’s governing documents which are alleged to have been violated, and any information which may assist in the investigation and resolution of the violation. The complaint must also include the name and contact information of the complainant. Non-written, anonymous, or written complaints failing to include sufficient information will not be investigated and will not be subject to any enforcement action.

2. Association Action in response to Complaint. Upon receipt of a proper complaint by the Association, the Board has sole discretion in what action, if any, to take. Actions may include immediate initiation of the enforcement procedures of this policy, including initiation of an investigation, or a written response to the complainant explaining that the complaint is insufficient.

A. The Board may decline to take action if a complaint does not include the information set forth in 1 above, or the Board reasonably believes the complaint is frivolous, falsified, malicious or otherwise brought for an improper purpose.

B. If the Board decides to undertake an investigation, the Board shall have sole discretion in appointing an individual or committee to investigate the matter. The investigator will be an impartial decision maker who will not receive a greater benefit or detriment from the outcome of the investigation than the general membership of the Association. When the complaint is from or involves a Board member, that member will recuse himself, in writing, from all discussion and voting on the complaint, except discussion as is normally allowed for the general Association membership.

C. When an alleged violation poses serious health or safety issues or other serious immediate consequences to persons or property, the Board may waive these procedures and proceed with appropriate emergency action to obtain prompt response by the alleged violator to correct the violation and avoid any recurrence.

D. The alleged violator has the right to request to meet with the Board at any time during the enforcement process to discuss the alleged violation, propose resolution, or present any mitigating circumstances. A meeting request should include the issues to be discussed and be submitted in writing to the Association, with a copy to the President of the Board. A Board member will coordinate the requested meeting schedule and notify the alleged violator.

E. Documentation.

(1) The investigator will create a file, keep a record of all actions, and retain all documentation. Upon closure of the case, the file will be given to the Association Secretary for record retention.

(2) Notices to violators will be sent by both regular and certified mail return receipt requested. Notices to complainants may be sent by regular mail. Notices will be deemed received by the addressee at 6:00 pm on the third business day after mailing, if not actually received earlier.

3. Investigation. Upon receipt of a report of alleged violation, the Board President will assign the complaint to the appropriate committee or director as investigator. In most cases, covenant violation complaints will be pursued by the Environmental Committee chairperson, with the assistance of the Architectural Control sub-Committee as needed.

A. Initiate Contact. Within 10 days of receipt, the investigator will review the complaint for general sufficiency. The investigator will contact the alleged violator to discuss the complaint (not disclosing the complainant), visit the property to view the alleged violation, determine avenues for resolution, and in most cases will attempt to capture recorded or photographic images of the alleged violation.

B. No Violation. Should the initial investigation find no violation, the investigator will report to the Board and notify the complainant in writing. If evidence supporting the existence of violation is confirmed, the investigator will continue with enforcement procedures.

4. Enforcement Procedures.

A. Initial Notice of Violation. Within 15 days of receipt of the complaint, the investigator will send an “Initial Notice of Violation” to the violator including the details of the complaint (without disclosing the complainant), provisions of the governing documents being violated, recounting the initial contact and potential resolutions discussed, and informing the violator to notify the investigator when the violation is resolved. The notice will contain a resolution deadline by which the violator must resolve the violation, as determined by the investigator, but not more than 30 days without reasonable justification. The notice will inform the violator that the Board may continue with enforcement procedures and actions as set forth in this policy, included with the notice. It will also advise the owner of the opportunity and procedure to be heard before the Board. A copy of the notice will be sent to the complainant.

B. Negotiation. If the violation is of such a nature that it cannot reasonably be resolved in a timely manner, the investigator may attempt to negotiate a resolution acceptable to the violator and the complainant, only if both parties agree to participate in the process. If the negotiation results in anything other than full compliance and resolution of the violation, a written negotiated agreement will be completed. If the resolution requires a variance, the violator will submit a request for variance, the investigator will coordinate approval with Board, and the approval will be included with the negotiated agreement. *(The Board may only approve a non-compliance by approving a variance request).*

C. Second Notice of Violation: Within 5 days of the Initial Notice resolution deadline, if the violation remains unresolved or the violator indicates no intention to comply, the investigator will contact the violator and document it by sending a “Second Notice of Violation”. The second notice will include a second resolution deadline by which the violator must resolve the violation, as determined by the investigator, but not more than 30 additional days without reasonable justification. The notice will identify the potential repercussions of continued non-compliance, and provide an opportunity for the owner to be heard before the Board.

D. Final Warning Notice: Within 5 days of the second resolution deadline, if the violation remains unresolved and it appears little or no progress has been made toward resolution, a “Final Warning Notice” will be sent to the violating owner. This notice will recap prior efforts to work with the violator and the lack of progress toward resolution, include a copy of the Association’s alternate Dispute Resolution Policy and advise the owner of the Board’s willingness to participate in the process at the violator’s request, and will inform the owner if the violation is not resolved within 15 days the issue may be referred to the Association attorney to pursue legal actions. Legal actions may include but are not limited to filing a suit in a court of law against the violator to enjoin noncompliance or compel compliance. The Association will seek reimbursement of reasonable attorney fees and court costs from the owner, which may result in assessments and/or liens against the property, in accordance with the Association’s governing documents and Colorado law.

5. Remedy.

A. Notice of Resolution. When at any point in the process the violation is corrected, or compliance is otherwise achieved, the investigator will inspect the property to confirm the resolution and in most cases will attempt to capture recorded or photographic images to substantiate the resolved violation. The investigator will inform the Board, and then send a “Notice of Resolution” to the violator, with a copy to the complainant, documenting the resolution and closing the enforcement action. The notice will include information about repeat violations as stated below.

B. If the actions described above do not cure the violation, or in the event of emergency, health or safety reasons, the Board will have the right, but not the obligation, to immediately pursue legal actions or alternative actions as authorized in the governing documents.

(1) Within 5 days of the Final Warning Notice resolution date, the investigator will report the status of the case to the Board President for consideration and decision on how to proceed. Within 30 days, or at the next regularly scheduled Board meeting, whichever is soonest, the Board will weigh the nature of the offense and totality of circumstances with consideration for costs of litigation and fiduciary responsibility and decide how to proceed.

(2) Notice of Action. The Board President will send a formal "Notice of Action" informing the violator of the continuing violation and the remedy chosen as a result thereof. The notice will include a copy of the Association's alternative Dispute Resolution Policy. The complainant will be sent notice of the lack of resolution and ongoing nature of the enforcement process.

6. Repeat Violations. If a violation of the same nature recurs within one year after the last violation letter was sent, the enforcement process will continue uninterrupted. If a violation of the same nature recurs more than one year after the last violation letter was sent, it will be treated as a new violation.

7. Recovery of Costs. Any violation shall entitle the Association to recover from the violator, its reasonable attorney fees, court costs, and any other collection expenses, regardless of whether litigation is instituted or is successfully concluded. The Board may seek to recover such costs by all legal remedies, including assessing such costs to the owner's account with the Association in accordance with the Association's collection policy.

8. No Waiver. The Association's decision not to take enforcement action or its failure to take enforcement action for violation of any covenant, published policy, or restriction for any period will not be deemed a waiver of the right to do so in the future.

9. Supplement to Governing Documents. The provisions of this policy are in addition to and supplement the terms and provisions of the governing documents including the Declaration of Protective Covenants, Bylaws, Policies and Rules. All such rights and remedies shall be cumulative, and the exercise of any one or more of such rights and remedies shall not be deemed an election precluding the exercise of any of the others.

10. Substantial Compliance. The Board may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances, in the best interest of the Association, and is documented as such. The Board may at any time determine it to be in the best interest of the Association to end the enforcement action process and refer the matter to legal counsel to pursue the Association's remedies, which may include injunctive relief to correct or otherwise abate the violation. Technical irregularities or defects in notices or other compliance with this policy shall not invalidate the proceedings or remedies imposed.

11. Severability. In the event a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

12. Amendment. This policy may be amended from time to time by the Board of Directors.

The foregoing Resolution to adopt the Covenants Compliance Policy was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting on April 7, 2014 and is effective May 1 2014.



VINCE MAUTINO, President
Wildwood Village Homeowners Association