

**Board of Directors**  
**Date Motion Emailed: December 8, 2023**

**SHHA MOTION FORM**

I, Phil Krehbiel, move that: The attached SHHA Board Policy draft, **Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights** , be approved and place in effect immediately..

EXPLANATION/JUSTIFICATION (if necessary):

The Policy provides aa additional legal means to enforce the SHHA Covenants and related ACC Guidelines and avoids the need to take each violation that is not corrected to court as a lawsuit.

Signed: \_\_\_\_\_ /s/ Phil Krehbiel

Seconded: \_\_\_\_\_ /s/ Hugh Prather

**SECRETARY'S RECORD: No. 2023 - Dec - 13 - #004 - ACC**  
(year - month - day - # - Committee)

(circle) Voting by: Voice Show of Hands  
Unanimous Vote? Yes \_\_\_ No X

Adopted                  Postponed                  Amended                  Lost                  Tabled  
Referred to Committee (which one) \_\_\_\_\_

**ACTION REQUIRED: POC \_\_\_\_\_ DUE DATE \_\_\_\_\_**

**DISPOSITION (circle): By Laws to be revised accordingly.**

Form Version: 8-4-22

**12/13/23 meeting:**

**Motion was made to table. Motion failed.  
Question was called: Vote taken by show of hands: 6 in favor, 7 opposed. Motion failed.**

**1/10/2024 meeting:**

- 1. A Main Motion to adopt a "Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restriction, and Covenants of Sandia Heights". Phil Krehbiel moved and Hugh Prather seconded that the motion be adopted. Motion was discussed. Action taken: Motion tabled until the March meeting**
- 2. A Subsidiary Motion to table the Damages Assessment Plan until the March Board meeting. Phil Krehbiel moved and Hugh Prather seconded that the Motion to adopt a Policy for the Calculation and Imposition of Damages be tabled until the March meeting. Motion passed.**

**The motion is tabled and will be voted on again at March Board meeting.**

## **SHHA Board Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights**

The deed to each residential lot in the area in Bernalillo County, New Mexico known as Sandia Heights Development (“Sandia Heights”) contains reservations, restrictions, and covenants (collectively “Covenants”). The Covenants establish a general plan for the “improvement, development, and restriction of the property,” and all lots and portions of lots in the subdivision are subject to the general plan. The Covenants are “for the benefit of each and every subsequent owner of any portion of the land” in the Sandia Heights. The Covenants run with the land and remain in effect until changed by a three-quarters majority of the residential lots within each unit of Sandia Heights.

The Sandia Heights Homeowners Association (“Association”) was created to promote the common interests and welfare of its members of record located in Sandia Heights and to administer and enforce covenants, including those relating to the architectural appearance of Sandia Heights.

An Architectural Control Committee (“ACC”) was established by the Covenants of each of the units that comprise Sandia Heights. The ACC reviews and approves all potential construction, reconstruction, and improvements in the subdivision, including minimum size, location of structures on each lot, and appearance.

The ACC has the final authority to disapprove any plans, specifications, or details if:

- they are not in accord with all the provisions of the declaration;
- a design or color scheme in the proposed structure is not in harmony with the general surroundings of such lot or the adjacent structure;
- the structure unduly interferes with the view from nearby residences;
- the plans and specifications submitted are incomplete; or
- the committee deems the plans and specifications contrary to the spirit and intent of the restrictive covenants, or contrary to the interest and the welfare and rights of all or any part of a unit within the subdivision.

No building or improvement of any kind may be constructed or placed upon any lot in Sandia Heights without the prior written consent of the ACC.

A Covenant Support Committee (“CSC”) exists to investigate and resolve covenant violations, and to enforce the Covenants as written. The CSC has responsibility for covenant violations not expressly reserved to the ACC.

Covenants for which the CSC provides primary oversight include those pertaining to:

- improper renting of rooms within a residence;
- any trade, offensive activity, annoyance, or nuisance;
- boats, house trailers, and temporary residences;
- domestic animals;
- garbage, trash, rubbish, and noxious materials
- unshaded floodlights.

Covenant violations coming to the attention of the CSC involving the exterior appearance of homes, structures, and landscaping are referred to the ACC for resolution.

Covenant violations, if uncorrected, constitute damage to Sandia Heights, the lot owners, and residents. Violations interfere with the harmony of Sandia Heights, and the ability of other lot owners to enjoy the use of their own lots. Violations also result in additional expenses to the Association in the form of legal fees and court costs that might be avoided if an alternative to litigation is available; fees and costs that ultimately fall onto the other residents in Sandia Heights.

The severity of the damage depends on the nature of the Covenant violation, and its duration. The Association has established the following schedule of damages to be assessed against any lot owner allowing uncorrected Covenant violations. The schedule of damages is intended to provide a level of collective recompense when no other measure of actual damages can be readily ascertained. The schedule of damages ultimately seeks to preserve the integrity of Sandia Heights and its Covenants. It is not intended to be a penalty, nor to be punitive in nature. The Association, through its committees, retains the discretion to assess larger or lesser amounts of damages depending upon the specific circumstances of any particular violation.

No assessment for damages will be made until notice of the uncorrected violation has been given to the lot owner, and a reasonable amount of time allowed for its correction. In establishing a reasonable amount of time for correction the responsible committee shall consider the complexity of the project and the steps necessary to correct the violation.

Each lot owner shall be provided written notice and given the opportunity to dispute any alleged violation. The lot owner may dispute the violation in writing or at a hearing before the committee involved, provided that the lot owner receives notice a minimum of 14 days before the hearing or submission deadline.

Unpaid assessments for damages will result in a lien on the property in question until the covenant violation has been corrected and all assessments paid or otherwise resolved. (47-16-6-B NMSA 1978)

## **Damages Assessment Schedule**

### *Architectural Control Committee:*

Exterior color	\$100 per week
Exterior trim	\$50 per week
Non-conforming roofs or roof material	\$100 per week
Roof trim	\$50 per week
Non-conforming walls and fences	\$50 per week
Non-conforming landscaping	\$50 per week
Set-back and easement violations	\$100 per week
Unauthorized structures	\$100 per week
Non-conforming solar collectors	\$50 per week
Failure to timely complete projects once begun	
New construction and additions	\$100 per week
Painting, stucco, and trim	\$50 per week
Window replacement	\$50 per week

### *Covenant Control Committee:*

Improper renting or leasing of rooms within a residence;	\$150 per week
Any trade, offensive activity, annoyance, or nuisance;	\$150 per week
Boats, house trailers, and temporary residences;	\$100 per week
Unauthorized domestic animals;	\$50 per week
Garbage, trash, rubbish, and noxious materials;	\$25 per week
Unshaded floodlights	\$25 per week

This plan forms a part of the Community Documents of the Association as that term is defined in Section 47-16-2-G (NMSA 1978), shall be published with all other Community Documents of the Association, and thus be made available to all lot owners.

Policy Adopted by the Sandia Heights Homeowners Association Board of Directors

Effective immediately.

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Roger Hagengruber, President

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Date: December 13, 2023