

Shaunessy Homeowners Association

Rules and Enforcement

Introduction

This publication has been adopted by the Shaunessy Homeowners Association ("Association") through its Board of Directors ("Board"), to describe for the Owners of Lots within the plat of Shaunessy (as defined below) the rules adopted by the Board which apply to activities within Shaunessy. This publication also describes the manner in which the rules and other requirements described in the Declaration (as defined below) will be enforced by the Association, and the rights of Owners to respond to and contest determinations of violations that are made by the Association.

Definitions

The definitions contained in the Declaration are incorporated herein by this reference. Additional definitions are described below:

- A. **Board Decision:** A Board Decision is any decision of the Board adopted in the manner provided by the Governing Documents or by the powers granted the Board pursuant to RCW 64.38.020.
- B. **Community Wide Standards:** The Community-Wide Standards are the standards described in Article Ten, Sections Six through Eighteen of the Declaration and in the rules adopted by the Association as they are published from time to time. The Governing Documents assign to each Owner certain responsibilities and delegate to the Association certain authority to make decisions and take actions, both of which are meant to preserve and advance the Community-Wide Standards. The Declaration makes each Owner responsible for complying with specific restrictions found in the Declaration for getting prior written approval from the Association before doing certain things described in the Declaration, and for following rules and regulations the Board adopts from time to time.
- C. **The Declaration:** The Declaration of Covenants, Conditions and Restrictions and Easements for the Shaunessy recorded December 2003 at Snohomish County Recorder's No. 200312100069.
- D. **Governing Documents:** The Governing Documents are those documents described in RCW 64.38.010(2), and include the Declaration, the Articles of Incorporation for Shaunessy, the Bylaws for Shaunessy (as amended from time to time), and the Rules for Shaunessy (as amended from time to time).
- E. **Hearing Board:** A Hearing Board is a group of individuals selected by the Board (or may be the Board itself, if a separate Hearing Board is not appointed by the Board) authorized by the Board to investigate, hear and determine all complaints concerning violations of the Governing Documents or Board Decision by any Owner, tenant, occupant or visitor to Shaunessy, and to order compliance of a fine. Any member of a Hearing Board who is incapable of impartial, disinterested and objective consideration of the matter before the Hearing Board shall disclose that fact to the Hearing Board, and shall remove himself or herself from participation in the proceedings, and have such removal recorded in the minutes of the meeting.

Rules of Shaunessy

The rules and regulations contained in this section have been adopted by the Board of Directors to assist the Shaunessy HOA Property Manager and the Shaunessy HOA residents in maintaining quality neighborhoods with high standards of yard and home maintenance and responsible resident behavior.

The Rules are part of the governing documents of the Association, and augment the recorded CC&Rs. If the CC&Rs are like the constitution of the community, the Rules are like the local laws. They cannot conflict with the CC&Rs, but they can add to regulations about topics that the CC&Rs cover. They are issued by the Board, and are not recorded. You should expect the Rules to change periodically as the needs of the community changes. It is your responsibility to keep up to date with the changes. You will receive notice when Rules change, but if you have a question about a particular issue, be sure to check with the property management company for a copy of the latest Rules

RULE TOPICS

These rules are divided into two categories; general rules dealing with matters of mutual concern to members of the Shaunessy HOA; and rules dealing with homeowner actions involving city/county ordinances and requiring ACC approval:

General Rules and Regulations

Section 1: Maintenance by Owner (Ref. CC&R 7.2)

Owners shall maintain their home and all structures (including the yard and landscaping, fences, the Home, and other improvements located thereon), in a good, clean, attractive, safe and sanitary condition.

Section 2: Unsightly Conditions (Ref. CC&Rs 10.11)

No unsightly conditions shall be permitted to exist on any Lot. Unsightly conditions shall include, without limitation, laundry hanging or exposed in view for drying, litter, trash, junk or other debris; inappropriate, broken or damaged furniture or plants; non-decorative gear, equipment, cans, bottles, ladders, trash barrels and other such items; awnings, and air conditioning units or heat pumps. Window air conditioning units may be located on the side or rear of a home and must be removed at the end of the summer season. No clothes lines or other overhead wires or string shall be hung or affixed to any Lot. Holiday lights are permitted between the first day of November and the last day of January.

Section 3: Improvements and Construction (Ref. CC&R 10)

All construction, improvements, or exterior alterations to a home or any Lot must have approval by the ACC committee. The ACC committee has the authority to publish a Board approved list of acceptable improvements that do not need approval by the ACC committee.

Section 4: Animals (Ref. CC&R10)

No animal shall be left unattended in the common area and must be on a leash when not in a fenced yard. All pet owners must immediately remove and properly dispose of pet waste outside of the owner's fenced yard. Animals must not be allowed to excessively bark when outside of the home, even in its own backyard.

Section 5: Miscellaneous Rules (Ref CC&R 15)

- Signs — Signs for solicitation are not allowed. Estate signage is restricted to the following; one yard arm sign per listed home and one directional sign within Shaunessy per listed home.
- Basketball hoops — Backboards may not be attached to any home. Freestanding portable backboards are allowed but must remain on owner's property and shall not prevent owner from parking in the driveway, others from parking on the street, or pedestrians from walking on the sidewalks.

Enforcement of Declaration and Rules

The Board's Enforcement Authority

The primary means for preserving and advancing the Community-Wide Standards is for each Owner to voluntarily perform the responsibilities of an Owner. Shaunessy has achieved its existing neighborhood character largely because individual Owners take their responsibilities seriously. The Board believes that the actions of responsible Owners will continue to minimize the need for the Board to force compliance with the Governing Documents through enforcement action.

However, for a variety of reasons, occasionally Owners will fail to comply with requirements clearly set forth in the Governing Documents and something more is needed to bring them into compliance. This Policy is meant to guide the Board in acting to restore an Owner's compliance with the Governing Documents through a process that is fair, efficient and effective.

The Declaration gives the Board broad authority and a variety of tools to use in preserving and advancing the Community-Wide Standards through enforcement of the Governing Documents. The Board is authorized to create rules, regulations, procedures and penalties, and may use its discretion to determine the manner in which enforcement is to be achieved. The Board is authorized to utilize various remedies to restore compliance with the Governing Documents, including:

- Imposing a fine
- Taking action to cure the violation and charging all costs of the cure to the Owner
- Charging the Owner for all legal fees incurred by the Association
- Preventing a contractor, agent, or others from continuing work
- Requiring an Owner, at the Owners own expense, to remedy a violation and to restore a Living Unit or a Lot to its previous condition
- Suspend an Owner's voting rights
- Suspend an Owner or any other person's right to use any recreational facilities
- Impose a specific assessment
- Filing a lien against the property
- Bringing a lawsuit to get a court order for requiring compliance, as well as a judgment for all damages, attorney's fees and costs incurred

Enforcement Procedures

The Declaration states that all Owners must comply with the Governing Documents, and that the Board has authority to ensure compliance through a variety of measures. The following Enforcement Policy (the "Policy") has been adopted by the Board to govern actions by the Association, the Board of Directors and the Owners regarding the enforcement of the Governing Documents.

Section 1: Discretion of Board

This Policy shall serve as a guideline for the Board and the owners, describing the means by which compliance with the Governing Document will be pursued by the Association. The Board retains full and complete discretion to determine whether any violation identified by the Board, the Association or any Owner will be the subject of enforcement action, and the extent to which the Board and the Association may expend funds, issue orders, levy fines or conduct hearings to seek compliance.

Section 2: Identifying a Possible Violation

A possible violation of the Declaration may be identified by a periodic inspection done to monitor compliance by Association and/or Board investigation, by an Owner's written complaint, or by other reasonably reliable means. The Association and/or Board may periodically monitor Covenants compliance by drive-through inspections. If an inspection is conducted, a written record of each Covenants violation observed may be made. Assuming that (a) the condition is a violation and it is determined (b) to be a material violation that justifies correction, and (c) that no certificate of approval has been issued for the condition observed, then a Compliance Request will be sent to the Owner of the Lot where the violation has been observed.

Section 3: Written Complaint

Any person may bring a possible violation to the Board's attention through a written complaint. The complaint must identify the property, describe the violation and should, if readily ascertainable, include a reference to the specific provision of the Governing Documents being violated. The Board may investigate, through a Board member or through an agent, to see if the condition described still exists. If the Board, based upon the investigation made by the Board member or its agent determines that (a) the condition is a violation, and (b) it is determined to be a material violation that justifies correction, and (c) that no certificate of approval has been issued, a Compliance Request will be sent to the Owner of the Lot where the violation has been observed.

Section 4: "Three Step" Approach for Violations

The Board shall use a "three step" approach for processing violations that are not a health or safety hazard, as outlined herein. For violations that constitute, in the Board's sole subjective determination, a health or safety hazard, the Board may impose the Fine described in Step Three within seven days of the giving of the Compliance Request, as if Steps One and Two have been completed and compliance has not been achieved.

Step One: Three violations of the same restriction within twelve months or continued noncompliance of the same violation will result in a \$150.00 fine. That fine is imposed at the time the third Compliance Request is sent and applies for the first thirty (30) days after the date the fine is imposed.

Step Two: Continued presence of the violation on the day following the thirtieth day will result in an additional \$250.00 fine.

Step Three: An additional \$350.00 fine will be imposed for the continued presence of the violation on the first day following the thirtieth day of the Step Two fine's effective period.

Fines of \$350.00 will continue to accrue in like manner, each thirty days, until the violation is cured. A violation that was cured and during the subsequent 12 months violated again will be treated as if the original violation was never cured and the fine schedule will continue as defined above. Fines are not an exclusive remedy; therefore, the Board may resort to other remedies in addition to, or in lieu of, fines. Fines shall become special assessments, which can be collected in the manner described in Article Nine of the Declaration.

Section 5: Compliance Request

If a Compliance Request is sent to an Owner, it shall contain the following information:

- a) The property's common address
- b) The nature of the violation
- c) A citation to the specific restriction being violated
- d) The date and time upon which compliance with the restriction must be achieved
- e) The manner in which the Owner can achieve compliance which will remedy the violation
- f) The proposed fine, specific assessment, or any other sanction to be imposed if the violation is not remedied as described in the notice
- g) A statement that the Compliance Request serves as a determination that the violation has occurred
- h) That the determination is final unless appealed to the Board, in writing, within 10 days of the date that the Compliance Request was issued
- i) That if the Compliance Request is appealed, the Owner has the right to a hearing before the Board

Section 6: Issuing a Stop Work Order

In addition to imposing a fine, if appropriate based upon the nature of the violation the Board may issue a Stop Work Order to any person engaged in an unauthorized activity. An unauthorized activity is any activity which requires the prior written approval of the Board or the ACC but has not received prior written approval. A Stop Work Order shall:

- a) Identify the property's address
- b) Describe the unauthorized activity
- c) Identify the specific prior approval requirement being violated
- d) State that the unauthorized activity shall immediately cease, and describe any additional sanctions to be imposed
- e) State that the delivery of the Stop Work Order serves as a determination that a violation has occurred
- f) State that this determination is final unless it is appealed to the Board, in writing, to the within 10 days of the date that the Stop Work Order was issued
- g) State that if the Stop Work Order is appealed, the Owner has the right to a hearing before the Board
- h) State that failure to immediately comply with the terms of the Stop Work Order will cause a \$350.00 fine to be imposed and that for each week thereafter in which noncompliance with the Stop Work Order takes place, a separate \$350.00 fine will be imposed.

Section 7: Paying Fine Does Not Cure a Violation

Paying a fine does not relieve a person from the responsibility to cure a violation.

Section 8: Voluntary Compliance Agreement

The Board may reach a Voluntary Compliance Agreement with an Owner in which the Owner admits the violation exists, agrees to take specific actions to cure the violation within a specific time frame, and agrees that failure to perform the specified actions within the specified time frame will entitle the Board to impose a fine or fines in a specified amount. When entering into a Voluntary Compliance Agreement the Board may, in its discretion, modify or waive any portion of a fine that would otherwise be due from the Owner.

Section 9: Appeals

Owners may appeal any finding of violation to the Board, and may appeal a Stop Work Order to the Board. Appeals must be submitted in writing to the Board within 10 days of the issuance of the Compliance Request or Stop Work Order. On an appeal, the decisions of the Board are final. The Board will then hold a hearing according to the following procedures:

- a) The Owner shall include, in the Owner's written appeal, all written information upon which the owner relies in the Owners appeal, together with a narrative description of the basis for the appeal, including references to the provisions of the Governing Documents that support the Owners position.
- b) The Board, upon receipt of the written notice of appeal and supporting documentation, shall schedule a hearing on the appeal not less than 14 days, nor more than 45 days, after receipt of the written notice. The Board shall provide written notice of the time and location of the hearing. The Board shall use its best efforts to schedule the hearing at a time that will not directly conflict with the material employment or family responsibilities of the Owner, and if the time chosen by the Board does so conflict, the Board will cooperate with the Owner to schedule a time for the hearing that is mutually convenient.
- c) Not less than 10 days before the date scheduled for the hearing, the Owner shall provide to the Board any additional written information gathered by the Owner since the submission of the notice of appeal to the Board, and may submit photographs and the written statements of persons upon who the Owner relies to support the Owner's appeal. If the Owner plans to have any person other than the Owner appear and speak at the time of the hearing, the Owner shall provide the names, addresses and telephone numbers of such persons to the Board not less than 10 days prior to the date of the hearing.
- d) Upon receipt of the information in support of the appeal supplied by the Owner, the Board shall supply copies of such information to the complaining party, if there is any. Not less than 5 days before the hearing, the complaining party (or the Board, if the Board initiated the complaint) shall supply to the Owner any additional information, not previously supplied to the Owner, related to the subject of the hearing, and the identification of any persons, other than the persons previously disclosed to the Owner in the written information supplied to the Owner as a part of the Compliance Request of Stop Work Order, that the Board will rely upon at the hearing.
- e) The hearing shall be open to the Members of the Association, and minutes shall be taken of the hearing. The Owner shall present the Owners appeal, and all information in support of the appeal; the Board and/or the complaining party shall be entitled to respond, and the owner shall be entitled to reply to the response. The Board may confer privately, and shall make its decision orally or in writing, at the Board's election. A written notice of the disposition of the appeal shall be supplied to the Owner after the hearing.

- f) The pendency of an Owners appeal shall not prevent the Board from taking action to seek relief from a court to enforce the Governing Documents before the appeal is determined.

Section 10: Board's Discretion to Waive Fines and Enforcement

The Board may modify or waive a fine, seek relief in court or elect not to seek such relief, as the Board determines in its sole, subjective discretion.

Section 11: Protection of Board Members

Persons exercising authority of the Board are not liable for action or inaction related to enforcement of the Governing Documents. Board action or inaction under this Policy shall not create any liability of the Board or the Association.

Section 12: Effective Date

These provisions shall take effect on August 8, 2007 and supersedes all previous provisions.

Adopted by the Board of Directors

Date: 08/07 . 2007

Original Document Signed by:

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