

Governance of the Glenlake Upstate Homeowners Association

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Introduction

Contents

Governance of the Glenlake Upstate Homeowners Association	1
Introduction	1
Annexation	3
Delinquency	6
Vehicles	7
Golf carts	7
Animals and the Fair Housing Act	8
Noise	9
Snow removal	10

Annexation

- What is going on with this annexation? Why did I receive a letter?

When the developer started our neighborhood, he bought a piece of undeveloped property. Pieces of this property or phases were added to the Glen Lake neighborhood and its governing body (Glenlake Upstate Homeowners Association Inc.) in phases. In addition, areas like the roads, the lake, the entrances, the pool and club house, etc. were designated as common areas and subsequently conveyed to the association for typically \$1 each.

The developer had until March 2012 to add all phases. The initial phases were added correctly since the developer had the authority to add (i.e. annex) these phases to the neighborhood. Later phases (after March 2012) were added incorrectly as the right of the developer to annex new property into the neighborhood had expired and the developer failed to extend that authority prior to that right expiring.

After turning the neighborhood over to the homeowners in early 2018, the elected board noticed the discrepancy and started to investigate and correct the potential issues. This discrepancy does not affect your ownership of your property, our efforts are to correct a clerical error.

- Why did I receive a consent form?

You are in a phase that was annexed incorrectly. In order to correct the paperwork discrepancy, you can sign the consent form stating that you agree to be part of the neighborhood. Unfortunately, due to the rules in the governing documents, this request has to be approved by the other homeowners who are in the older (correctly annexed) phases.

Note that the consent form needs to be notarized.

- Why did I receive a ballot?

You are in a phase that was correctly annexed by the neighborhood Association. Due to the rules in the governing documents, requests by homeowners who would like to become part of the neighborhood have to be approved by the other homeowners who are in the correctly annexed phases. Your ballot gives you the opportunity to accept the entire group of folks in the incorrectly annexed phases who agree to be part of the neighborhood. The rules state that 2/3rds of the initial 285 lot owners (i.e. 190) need to affirm the request.

- I am in a phase that was not properly annexed. Will I be accepted if I consent to join?

The properly annexed homeowners do not vote to let individual lots into the development, accepting some and rejecting others. They vote to accept “everyone in the excluded phases” who consents to come in. It’s a blanket acceptance; you will not be singled out and turned down.

- What happens if the properly annexed owners do NOT vote to accept the unannexed phases?

From all indications, the current members are extremely anxious to welcome all of their fellow Glen Lake neighbors into the Association. They want the neighborhood to become what they thought it was, or was going to be, when they bought their homes. Nothing else makes sense, and nothing has changed since we each purchased our homes. After a few weeks, the Board members will contact those owners who have been too busy to complete and return a ballot and request that they do so as soon as possible. We will continue to contact owners in the phases annexed prior to 2012 until we have received the number of positive votes necessary to welcome the excluded phases.

- I have read on social media that 100% of those who need to be annexed need to consent before I can be admitted. Is that true?

No. Once 2/3rds of the owners of properly annexed lots vote in favor of accepting members from later phases, everyone who signed a consent form will be entered into the neighborhood HOA officially. The consent is individual and the membership is as well.

- I am in a phase that was not properly annexed. What happens if I don't sign the consent form?

It is not the first time that any developer has made an error like this. Given that most developers are involved in many neighborhoods at the same time, timelines slip through the cracks easily.

There is ample precedent available where the courts ruled in favor of homeowners associations. These verdicts are based on signed paperwork such as a PUD rider, plats, deeds, and behaviors such as using the amenities and common areas that the association offers.

- Why isn't the developer handling/paying for this?

Our legal counsel is in active discussion with the developer on this and other matters. Given the delicate nature of these negotiations, we cannot comment on this.

- What does the homeowners association (HOA) do?

The HOA owns and maintains the common areas which includes roads, curbs and sidewalks; the gates and surrounding areas; the club house, swimming pool and playgrounds; the lake and its surrounding areas; and several wetlands. By virtue of the governing documents, the HOA is also the point of contact with the County and utility companies for utility easements.

The business of the HOA is conducted by its Board of Directors and, on a day-to-day basis, the management company hired to perform administrative duties. One of the goals of the Board is to maintain and, when possible, improve property values within the neighborhood. The Board does this by overseeing the maintenance and administration of the common areas and amenities as well as by enforcing the common standards for the neighborhood as laid out in the governing documents (see, in particular, Articles VI, VII and VIII).

All of these maintenance and administrative costs are paid for from the annual assessments levied against owners. Every year, the Board develops a budget for the following fiscal year based on its best estimates of the funds necessary to both operate the Association during that year and make a meaningful contribution to Reserves. The annual assessment per owner is that cost estimate divided by the number of Association members.

- How many homes are affected?

There are 200 lots in the incorrectly annexed phases. There are 285 lots in the older, correctly annexed phases.

- I lost my Annexation Ballot. How can I get another?

Download the cover letter and explanatory attachments to make sure you are in the group of Lots that should complete a Ballot. If you are, download and print the Ballot (only one Ballot is to be submitted per Lot). Then:

- Vote on the Annexation issue and the Amendment by initialing in the appropriate spaces;
- Clearly print your name and address;
- Sign the Ballot;

- Return the Ballot to Hinson Management's Office in person or via USPS Mail.
- I lost my Consent Form. How can I get another?

Download the cover letter to make sure you are in the group of Lots that should sign a Consent Form. If you are, you must request a new copy of your Consent Form because each Consent is written specifically for a particular Lot. Send email to legal@scglenlake.com including the full name(s) of the owner(s) of the Lot, your physical address, and the email address to which you want us to send the Form. We will send you a copy of your original Consent Form as a pdf file (if you cannot accept and print a pdf file, ask us to send your Consent Form by regular USPS mail). When you get it, make sure it describes your lot and lists all owners.

A paper version of the Consent Form must be signed in front of a Notary Public and two (2) witnesses. If more than one person is listed as an owner of the property, all owners' signatures must be witnessed and notarized. So you should:

1. Print a copy of the Consent Form if you receive it in digital format, otherwise use the Form you receive by regular mail;
2. Locate a Notary and, if necessary, make an appointment;
3. Take any other co-owner(s) with you to the meeting with the Notary;
4. Clearly print the names of all owner(s) above the signature line(s) on the Consent Form;
5. Have all owners sign the Form, the Witnesses sign the Form, and the Notary sign and affix his or her seal;
6. Return the Consent Form to Hinson Management's Office in person or via USPS Mail.

- Where can I find a Notary Public for my Consent Form?

Hinson Management will supply Notary service during regular business hours. The Spartanburg County Public Library system has notaries. Online searches and the ancient Yellow Pages are also good sources for notaries.

- Who can I contact if I have questions?

Questions of a general nature can be sent to legal@scglenlake.com. You will not receive a direct answer, but the question and answer might be included on this page.

Questions regarding your personal situation can be directed to John Crawford with Kennison, Dudley & Crawford at 864-242-4899

You can contact your personal legal counsel if desired.

Delinquency

In 2019 through 2021, members were given the options to pay the annual assessment in one or two installments. There are several scenarios that can occur.

Scenario	Consequences
Owners pay the full amount before January 10	None. Owner is current in their payment.
Owners pay half before January 10 and the other half before July 10.	None. Owner is current in their payment.
Owner paid less than half on January 11.	The owners is now delinquent and payment of the remaining amount is due immediately. Late fees and interest are added to the amount payable.
Owner paid half before January 10, but paid less than the remaining half before July 11.	The owners is now delinquent and payment of the remaining amount is due immediately. Late fees and interest are added to the amount payable.

Owners can recover from their delinquent state by paying all outstanding sums or agreeing on a payment plan with the management company. During a payment plan, interest will still be collected. All payments will apply to the oldest outstanding debts first.

As soon as owners are delinquent over 30 days, the Association can start collection proceedings. Typically several reminder letters will be sent until the Board decides to hand collections over to the attorney. The attorney can file a lien on the delinquent property on behalf of the Association. The costs of the attorney (typically \$400-500 to file a lien) will be added to the delinquent amount and is subject to interest.

If Board decides to foreclose on the lien, the attorney will start foreclosure proceedings on behalf of the Association. The costs associated with foreclosure proceedings (typically over \$3000) will be added to the delinquent sum and is subject to interest.

If the judge decides in favor of the Association, the property will be sold at the County's Foreclosure Sale to the highest bidder and the owner will be evicted. Note that any mortgage on the property is not removed by this action, and the former owner will still be responsible for paying the Lender.

All of the above also applies to the monthly payments of the Town Home owners and Patio Home owners.

Vehicles

Golf carts

What are the rules on driving motorized vehicles like golf carts, ATV, mini-bikes, etc.?

Only licensed drivers 16 years of age or older. That means that it is illegal for young children or unlicensed drivers to drive a golf cart on a public road (which includes your neighborhood). It doesn't matter if you're seated next to your child; they still can't drive. Also, if your child has an accident, you can be criminally liable for endangering your child and civilly liable for "negligent entrustment" for any accident caused by your child. Reference: https://www.charlestonlaw.net/golf-cart-laws-in-south-carolina/?fbclid=IwAR13G7n03Dz4lj4VqbZwk6O4rImg5k0BqanvE_xaOzL4p_xxqq2rsLxG1Yk

The Covenants state: 8.16 Vehicles and Parking. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. [...] (f) No motorized vehicles shall be permitted on pathways or unpaved Common Area except for public safety vehicles and vehicles authorized by the Board.

Animals and the Fair Housing Act

The Covenants state in Section 8.21 - Two animals per lot (excluding small rodents, fish, or any caged animals that are normally not taken outside) - All animals must be on a leash, unless they are on the owner's property - All animal waste must be removed immediately from owners' lots and common areas. - Animals living in the Town Home area have an additional weight restriction of max. 50 lbs.

New guidance: <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

Joint statement: <https://www.hud.gov/sites/documents/huddojstatement.pdf>

Service animals are excluded from the number of animals per lot. The Association can require a homeowner to provide proof that he/she requires a service, companion, or therapy animal. This proof generally consists of a letter from a licensed medical doctor confirming the type of animal, or a specific animal, needed to accommodate a homeowner's disability.

In some cases, as when a homeowner is visibly blind or in a wheelchair, the board may not need to request proof of a disability (and it could seem inappropriate to do so). If a homeowner is unwilling or unable to provide proof of his/her need for a reasonable accommodation, then the association could prohibit the dog unless and until proper evidence of a need for a reasonable accommodation is received. However, the board and management have no right to know what the homeowner's specific disability is, as medical records are generally private

Noise

Sec. 30-28 - Unlawful noise.

Except as provided in section 30-27, it shall be unlawful for any person to willfully make or cause to be made any unreasonably loud and unseemly noise which disturbs the peace and quiet in any unincorporated areas or which unreasonably causes discomfort and annoyance to any person in an unincorporated area of the county or is unreasonably disturbing to residents. This shall include, but not be limited to, noises made by motor vehicles, horns, mechanical devices, electrical devices, electronic devices, human voice, musical instruments, or all other unreasonably loud and disturbing noise which exceeds that which is reasonable under the circumstances.

From the sheriff's office:

In general, the noise ordinance applies from 9:00PM through 7:00AM. An Officer needs to be dispatched so that they can assess the situation and give the person(s) a verbal warning, if needed. Once a warning has been given and the Officer is requested to respond back out to the same location (within the same time period), then it could result in a citation being written, at the Officers' discretion.

So, unless the noise violation is beyond reasonable during the daytime, there is very little the police will do about it. Of course, the "reasonable" aspect of it can be subject to interpretation. A bike passing through the street once will probably be considered reasonable, your neighbor running the engine on a loud bike all day is no longer reasonable.

Snow removal

1. What was the process for snow removal the last time it happened in January 2017?

In January 2017, Hinson sent a mailing to the neighborhood [about \$1.00 per household] letting residents know that they must remove their cars from the street or that area wouldn't be plowed. Before the snow began, the road was pretreated. Once the snow stopped, all streets that could be plowed were plowed. An ice melt was scattered over all roads that were plowed. Our vendor charged \$3,000 for that single snow event.

1. If there is more than one company that does snow removal, when was the last time we compared prices?

Hinson has never compared prices. Typically snow removal is offered by a limited number of vendors. It is a service that is needed infrequently and often requested at the last possible minute. Under those circumstances, it is a seller's market. Our Board hopes to include collecting bids during our budgeting process each year so we can establish relationships with our first and second choice vendors prior to the time we need them.

1. When it starts snowing on Friday night and we wake up to impassable roads Saturday morning will the snow removal people work on the weekend?

Snow removal companies must have their equipment positioned at the client's location BEFORE the snow starts, so a decision has to be postponed as long as possible to take advantage of the latest predictions regarding the storm's track and intensity, but made far enough in advance that our preferred vendors are not already booked and can get into position before the storm.

1. Isn't this a lot like high stakes gambling using limited, imprecise information? It seems there are a lot more ways to lose than to win.

Yes, that's a good analogy. Interstate 85 is a weather corridor that often determines whether we get an inch or two of fluffy snow or a major sleet, snow, and ice event. A storm that's predicted to bury us shifts north or south by a couple of miles and the ground is bare the next afternoon. A storm that's predicted to miss the Upstate drops south and we're buried. If we secure a vendor and a big storm actually hits, everyone in the neighborhood is as happy as possible under the circumstances. If we don't secure a vendor and the storm misses us, we're golden. Any other combination leads to very unhappy residents. Sadly, even the most well intentioned Board is likely to lose more often than win.

1. What will you do differently the next time a big snow is predicted?

If that happens this winter, we will gamble as wisely as possible and use the vendor Hinson hired in 2017. We will send an email blast to all registered users of this site telling them to park their vehicles someplace else other than the street or gutter or sidewalk so all streets can be prepped, plowed, and topped off with ice melt. We will likely also send an urgent post through Nextdoor. Then, if you want your street plowed and your neighbors are parked on the street, assume they did not get the messages and go ask them pleasantly to move their car so the plow will come through. If the rest of this winter is uneventful, we'll shop around for vendors and do the best we can next year at second-guessing the weather.