

Ayock Beach Improvement Association

POLICY REGARDING ENCROACHMENT ON AYOCK COMMUNITY PROPERTY AND EASEMENTS: REVISED

Ayock Beach Improvement Association (ABIA) Board of Trustees Policy, as allowed in the Articles of Incorporation in Article V, Section 4 regarding deeds and Article VI, Section 1 regarding usage of corporate property, shall manage easements and the property line designations as filed with Mason County, Washington and as is consistent with the Board's legal responsibilities to govern the home owners association (HOA).

OVERVIEW:

Ayock Beach Improvement Association, a non-profit Washington State corporation since 1961, is a homeowners association comprised of Members and governed according to its Articles of Corporation and Bylaws. ABIA owns and maintains many acres of real property. That real property includes roadways, a park, undeveloped land, beach land and some developed land that includes a boat launch ramp, pier/dock structure and water system infrastructure. Much of the real property owned by ABIA abuts the private property of Ayock Members.

During the past decades concerns and disputes have occasionally arisen about encroachments by Members onto ABIA's property or easements. To govern such concerns and disputes in the future the Board of Trustees has written and adopted this policy. The Board also expects this policy to provide guidance to Members as they improve their individual lots and structures.

This policy acts as a supplementary document to the laws of Washington State and the rules/regulations of Mason County such as building codes. In addition, the Ayock Board has received legal advice which helped clarify ABIA's property rights in a dispute with an individual Member/owner. Of special note is that continued use over many years by a Member of ABIA's real property due to encroachment over property lines or violation of an easement does not confer that property to ownership of the Member nor dissolution of the easement. Further, ABIA has the right and obligation to seek correction of encroachments.

Each occurrence of encroachment or disputed encroachment shall be addressed by the Board on a case-by-case basis. The following categories are not intended to list all possible encroachments, but instead are intended to act as examples.

GOAL OF POLICY:

The goal of this policy regarding encroachment is to ensure the property rights of Ayock Beach Improvement Association. It is imperative that the Board protect the ownership of ABIA'S property such that at the time of any sale of a Member's private property or transfer of any deed of a Member's lot no one can assert that any of ABIA's property rights were abandoned and/or are transferrable to a new owner. To that end, the Board will submit notice of encroachment letters to Ayock Members when the Ayock Board of Trustees deems necessary.

An official recordable form will also be submitted to the Mason County Auditor's Office. If an encroachment is corrected such submission to Mason County will not be necessary.

CATEGORIES OF ENCROACHMENTS:

A. Soft-scape landscaping:

The independent creation of planting beds, the planting of annuals, perennials, shrubs, bushes, and trees and contouring of the ground surface is considered soft-scape landscaping. Depending on the soft-scape encroachment the Board may or may not request correction. In ALL CASES the Board shall require the Member to maintain the soft scape in a presentable manner at the cost of the Member. If shrubs, bushes, or trees are planted directly upon or immediately adjacent to the property line, the Member shall be responsible for all future costs that may be required to maintain the plants to include 100% of the costs of cutting the plant down if it were to die. No standing permission is granted to any Member to install soft-scape features on HOA property or easements. A Member may apply to the Board for such features on HOA property or easements and permission may be granted.

B. Hard-scape landscaping:

The independent creation by Members of rock walls, patios, stone features such as walkways and electrical or plumbed structures are not allowed on HOA property or easements. These shall be considered examples of hard scape landscaping encroachments. These examples of hard-scape landscaping are considered more egregious as violations of encroachment than soft-scaping. In specific situations the Board may allow historical hard-scape landscaping features to remain until the time the property is sold or the names on the title are to be changed. A future date for correction may be agreed upon between the Member and the Board.

C. Temporary or short-term structures:

The independent creation of fences, sheds on piers, fire pits, carports or other temporary structures on HOA property or easements is not allowed. These are considered moderately high levels of encroachment violation. In specific situations the Board may allow historical temporary structures to remain until the time the property is sold or the names on the title are to be changed. A future date for correction may be agreed upon between the Member and the Board.

D. Permanent or long-term structures:

The independent creation of permanent or long-term structures such as buildings with foundations are not allowed to be built on HOA property or easements. These are considered high-level, major, encroachment violations. In specific situations the Board may allow historical structures to remain until the time the property is sold or the names on the title are to be changed. A future date for correction may be agreed upon between the Member and the Board.

E. Roadways and Paths:

The independent creation of paths or roadways paved in asphalt, concrete or rock on HOA property or easements is not allowed. Simply driving across the dirt of HOA property or easements without prior written permission of the HOA is not allowed unless where prior designation exists. Encroachment by such usage shall be addressed by the Board on a case-by-case basis.

F. Infrastructure such as pipes, electrical and other infrastructure:

The independent creation of supply-water or waste piping, electrical wiring and other infrastructure on HOA property or easements is not allowed. Encroachment by such usage shall be addressed by the Board on a case-by-case basis.

G. Other:

The above list of categories are examples and do not comprise a complete list of all possible encroachments.

CORRECTIVE STEPS FOR VIOLATIONS OF AYOCK BEACH IMPROVEMENT ASSOCIATION'S PROPERTY LINES AND/OR EASEMENTS

1. IDENTIFYING ENCROACHMENTS:

Some encroachments are obvious given common knowledge among Members and the Board regarding property lines. Some encroachments may require the assistance of a professional surveyor to be paid by either or both the HOA and the Member as mutually agreed by both parties. It is not the intent of the Board to evaluate and survey every lot owned by Members vis a vis the HOA's property lines and easements. Encroachments may become known to the Board by various means.

2. WRITTEN OR VERBAL FIRST NOTIFICATION:

The first communication about a suspected violation will be either verbal communication between a Board member (or designate) and the Member-owner OR a **certified letter** from the Board. The Board and the Member-owner will hopefully come to a mutual understanding about how and when to correct the encroachment. The Board will make written notes to put in a file specific to the address. An agreed upon a plan for correction and the accomplishment of a correction of an encroachment shall also be noted and added to the file in writing. In some cases no action will be required by the Board.

3. SECOND NOTIFICATION TO MEMBER-OWNER IN WRITING:

Upon the failure to correct a proven encroachment by a Member, the Board will send the Member a written notification in the form of a **second certified letter**. This letter will outline the next steps if the correction is not made by a specific date in the future.

4. THIRD NOTIFICATION IN WRITING TO BE SUBMITTED AS A RECORDABLE FORM TO MASON COUNTY AUDITOR:

Upon failure to correct a proven encroachment by a Member, the Board will submit a recordable form to the Mason County Auditor. The fee will be paid by the Ayock Beach Improvement Association. The decision to send the recordable form shall be made by a vote of the whole Board and if any member of the board has a conflict of interest, that member shall be excluded from the vote.

5. LEGAL ACTION:

When necessary at the sole discretion of the Board, a law suit may be filed seeking correction of the encroachment and seeking damages to include reimbursement of legal costs.

6. FINES: to be decided by Board

Contact Ayock Board by emailing AyockBoard@ayockbeachcommunity.org or postal mail at 360 N. Ayock Beach Dr., Lilliwaup, WA 98555

Approved by Board 4-7-2024

Updated: September 27, 2024 as directed by the Board at its September 21, 2024 meeting