THE DIAMONDHEAD COMMUNITY

COMMUNITY STANDARDS RULES & REGULATIONS

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Introduction

The Diamondhead Community continues to become more dynamic and revitalized by the accomplishments of our many committees and the efforts of volunteers. As a result Diamondhead is a more attractive community that is becoming an ever-increasing popular selection for new residents.

Unfortunately, in spite of the many improvements, we continue to receive negative criticism from prospective new property owners about several residences that have become detractions to our neighborhood. As you can imagine, the appearance of these properties discourage these individuals from making that positive decision to relocate to The Diamondhead Community.

Because of this, the DPOA Board of Directors has adopted several rules and regulations establishing nuisance and neatness standards provided for in our Bill Of Assurance and their enforcement.

These Rules and Regulations are set forth in the enclosed Community Standards Brochure for your information.

All residents are reminded that attractive communities, including well-kept residences are assets to everyone living in the neighborhood, and a positive influence on prospective new property owners. We ask all to cooperate and help us further raise community standards.
Rule/Regulation #2003-2-13

Intent:

To clarify and establish procedures for enforcing Diamondhead Bill of Assurance Paragraph 5, Nuisance, which states: No unlawful or noxious or offensive trade or activity shall be permitted on any lot, nor shall anything be done thereon which shall be or become an annoyance or nuisance to the neighborhood. All lots must be kept in a manner consistent with the Community. Failure to do so will result in maintenance of said lot by the Grantor or the Property Owners Association at the owner’s expense.

Rule/Regulation:

Unlawful, noxious or offensive trade or activity/annoyance or nuisance to the neighborhood shall be defined as follows:

Specifically prohibited by the Bill of Assurance are:
- Any illegal activity.
- Use of houses for anything other than residential purposes.
- Keeping of animals other than common household pets.
- Allowing animals to run loose.
- Posting of signs without permission by the Grantor (see Rule/Regulation #1998-13-03).

In addition, the following shall be considered nuisance:

- Loud and/or annoying noises (see Rule/Regulation #2003-Pending – See Attachment).
- Dumping of materials of any kind on easements and common grounds.

The above shall apply to property owners, their families, guest and/or tenants and to any visitors to Diamondhead.

Community standards for maintaining lots shall include but not be limited to the following:

- All residences shall be kept in habitable condition.
- All exterior surfaces of structures including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than treated or decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained, weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
• All fencing and/or screening shall meet the requirements of Rule/Regulation #1999-3-04.
• All building materials not incidental to an ongoing construction project, appliances, household items and other similar items not designed or intended for outside storage shall be kept in completely enclosed buildings. Sheds or detached storage buildings must meet the requirements of Rule/Regulation #1999-10-04.
• Accessory structures, including detached garages, fences and walls shall be maintained structurally sound and in good repair. All exposed wood surfaces other than treated or exterior rated materials shall be covered with a protective coating.
• All developed properties shall be maintained free from dead trees, fallen branches and limbs. Trees posing hazards to neighbors or passers-by must be removed from undeveloped properties.
• Exterior premises including sidewalks, driveways, carports, porches, walkways, stairs, parking spaces, and similar areas not completely enclosed shall be maintained free from hazardous conditions, building materials, appliances, household items, rubbish, debris, or other similar items.
• Trash cans shall be placed at curbside no earlier than one day prior to scheduled pickup and removed from sight within one day after pickup.
• All developed properties shall be maintained free from grasses in excess of ten inches, and other vegetation, plants, trees and shrubs shall be kept in a neatly trimmed manner. This does not include cultivated flowers and gardens.

The following apply to parking and storage of vehicles:

• No derelict vehicle (any motorized vehicle inoperable for a period of more than 30 days) shall be stored on a private lot or common ground except in a garage or carport.
• No vehicle of any kind may be parked on DPOA common ground or on a road right-of-way or street.
• No bus, truck, boat, personal watercraft, trailer, or other vehicle not normally or customarily used for personal or family transportation shall be parked or stored on any residential property, or non-approved area, for a period of time in excess of 72 hours.
• No vehicle used for commercial purposes, including but not limited to dump trucks, flatbed trucks, cargo vans, cargo trailers, and self powered construction equipment shall be parked or stored in residential area or on common ground other than for the purpose of accommodating work on the premises. This does not include auto, pickup trucks and vans up to 6,000 G.V.W. and normally used for personal or family transportation.

Procedures for Enforcement:

Complaints may be lodged, by the use of a “Concern” form at the DPOA office. Complaints may be made anonymously.
Any property owner allegedly in violation of these Rules/Regulations for “noxious or offensive activity and/or annoying or nuisance behavior” will be subject to the following process:

I. A letter shall be sent to the property owner from the DPOA office detailing the issues needing to be addressed. The property owner will be given fifteen (15) days to correct the deficiency. Failure to correct the problem will result in legal action. All costs, including attorney and filing fees, and all other associated costs shall be paid by the property owner and made a part of his/her account. (Source: Board of Directors Resolution 2004-26-17)

   A. Remedy the infraction totally and completely. The action would conclude any further penalties or enforcement.

   B. Appeal to the Board of Directors:
      1. This action will require the property owner to detail in writing his or her argument why, in their opinion, they are not in violation.
      2. The Board will make a decision and give written response to each appeal in a timely manner and no later than 10 days following the next scheduled board meeting. Directors, at their discretion, may hold a public hearing on the matter.
         a. Should the Board find in favor of the property owner, no further action would be required.
         b. Should the Board find against the property owner, he or she would have 10 days to remedy the infraction.

II. If the property owner does not comply with the initial letter or, in the case of an appeal to the decision of the Board of Directors, the following penalties will be enforced:

   A. An initial fine of $100.00 plus an established daily rate will be assessed until the infraction is remedied and become a legal obligation to the Property Owners’ Association of Diamondhead.

   B. The DPOA reserves the right to hire a third party contractor to remedy the infraction. All costs involved would be borne by the POA but immediately assessed to the Property Owner and become a legal obligation to the Property Owner’s Association of Diamondhead.

   C. Use of all Diamondhead amenities, e.g. golf course, swimming pool, will be suspended for both the resident and property owner (if different).

      1. Use will remain suspended until both of the following actions occur:
         a. The infraction is remedied totally and completely.
         b. All financial assessments are paid in full.
III. Further refusal to comply will result in civil penalties as follows:

If the lot owner fails to fulfill the requirements set forth herein, the matter shall be submitted by the General Manager for litigation. The lot owner shall pay all court costs, attorney fees and service fees associated with said litigation. Failure to pay within ten days after ruling will result in the total costs being assessed against the lot owner and shall become a lien on the owners’ property. Litigation shall include the filing of injunctive relief, a complaint for nuisance and any and all other legal causes of action resulting from the owners’ failure to abide by the rules and regulations of the DPOA Board of Directors.

Source:
Bill of Assurance, Board of Directors Meeting Resolution, January 23, 2003
Amended February Board Meeting, February 27, 2003

References:
DPOA Neat and Tidy ADHOC Committee

Rule/Regulation #2002-03-13

Intent:
To enforce the Diamondhead Bill of Assurance, Section 5, titled NUISANCE as well as the Animal Control Ordinance violations of which are both Class C Misdemeanors and can result in a fine not to exceed $100.00 or a jail sentence not to exceed 30 days or both.

Rule/Regulation

To issue written warnings and citations for violations of animal control ordinance in which the “animals running at large” is a part thereof.

The policy will be as follows:

1<sup>st</sup> Offense: The domestic animal will be picked up and transported to the holding area of the Diamondhead Police Dept. until 2:00 p.m. If the animal has not been claimed by this time, the animal will be transported to the Hot Springs Animal Control for humane reasons. The Diamondhead Police Dept. will issue a written warning to the owner of the animal, if known.

2<sup>nd</sup> Offense: Upon the second (2<sup>nd</sup>) offense/violations of this Article, the animal will be picked up and transported to Animal Control. A written citation will be issued to the violator by the Diamondhead Police Department.

In addition to the above-mentioned WARNINGS and/or CITATIONS issued by the Diamondhead Police Dept., Animal Control currently enforces the following fee schedules:
Animal Control on FIRST OFFENSE, will assess a fee/fine of $35.00 before the animal will be released.

Animal Control on SECOND OFFENSE, will assess a fee/fine of $65.00 before the animal will be released.

Animal Control on THIRD and SUBSEQUENT OFFENSES, will assess a fee/fine of $150.00 before the animal will be released.

These fees/fines are PER INDIVIDUAL – not per animal.

Source:
Board of Directors resolution, January 24, 2002

Reference:
Law Enforcement and Safety

**Rule/Regulation #1999-1-04-A**

**Intent:**
To establish rules and regulations for parking recreation vehicles on a property owner’s property.

**Rule/Regulation:**
Recreational vehicles are defined as motor homes, travel trailers, campers, boats and boat trailers, ATV’s and other vehicles not normally or customarily used for personal or family transportation. No such vehicles may be parked or stored on any residential property for a period of time in excess of 72 hours unless parked in a garage or carport or in an area approved by the Architectural Control Committee (ACC) for location and screening.

A permit must be obtained for parking a recreation vehicle outside a garage or carport in excess of 72 hours. The parking facility must meet the following requirements:

- a. It shall respect all setbacks as defined in the Diamondhead Bill of Assurance.
- b. On golf course lots, RV’s cannot be parked on the side of the lot facing the golf course unless in an enclosed facility.
- c. Permit fees for parking facility construction will use the existing fee structure for miscellaneous construction as set forth by the Diamondhead Property Owners Association Architectural Control Committee.
- d. The minimum requirements for obtaining a permit shall be:
- A drawing must be provided showing the location of the RV facility with respect to the property lines.
- All utility hook-ups must meet the existing ACC requirements.
- RV’s must have a permanently constructed parking area having a gravel or paved surface.
- The RV will be screened from view from neighboring properties, the street, and, where appropriate, from the lake and/or golf course.

e. Motor homes, travel trailers and campers may be used for guest accommodations for no more than fourteen (14) days; none may be used as a residence.

Source:
Paragraphs 2 (Single Family Quality) and 5 (Nuisance) of the Diamondhead Bill of Assurance; Board of Directors resolution, January 28, 1999, revised January 7, 2003.

Revised:

References:
Architectural Control, Community Standards Monitoring Committee.

Rule/Regulation # 2003-1-13

Intent:
To adopt and enforce a noise Rule/Regulation within Diamondhead according to the Bill of Assurance, Section 5, titled NUISANCE.

Rule/Regulation:

To issue written warnings, or citations and/or make physical arrests for violation of the noise Rule/Regulation which could result in “Disorderly Conduct”, a Class “C” Misdemeanor or “Harassment” which is a Class “A” Misdemeanor.

The policy will be as follows:

**Noises Prohibited.** No Person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, endangers or affects any other person’s comfort, repose, health, peace, safety or welfare, precludes their enjoyment of property, or affects their property’s value. Any noise heard outside the premises of the noise’s source shall be prohibited and violate this Rule & Regulation.

**Unlawful Acts.** Noises that violate this Rule & Regulation include, but are not limited to, the following acts:
1. **Horns and Signaling Devices** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle, except as a danger warning.

2. **Radios, Tape and Disc Players, Etc.** The using, operating, or permitting to be played any radio receiving set, tape or disc player, musical instrument, phonograph, paging system, or other machine or device that produces or reproduces sound in a manner to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities, considering the time, place and purpose for which the sound is produced. Operation of any machine that is plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation.

3. **Sounds from Vehicles.** When a machine or device located in or on a vehicle produces or reproduces a sound violating this Section, the vehicle's owner, or if the vehicle's owner is not present at the time of the violation then the person in charge or control of the vehicle, is guilty of the violation.

4. **Yelling and Shouting** Yelling, shouting, hooting, whistling, or singing at any time or place that annoys or disturbs the quiet, comfort or repose of any person in any office, dwelling, or other place of residence or in the vicinity.

5. **Animals, Birds** The keeping of any animal or bird whose frequent or long continued noise disturbs the comfort or repose of any person in the vicinity.

6. **Exhaust.** The discharge into the open air of exhaust from a stationary internal combustion engine, motor boat, motor vehicle or all terrain vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises and complies with all applicable laws and regulations.

7. **Defective Vehicles or Loads.** The use of any automobile, motorcycle, or other motor vehicle so out of repair or so loaded to create loud and unnecessary grating, grinding, rattling, or other noise that will disturb the comfort or repose of any person in the vicinity.

8. **Sound Trucks for Advertising Purposes.** The use of sound trucks or any other vehicle equipped with sound amplifying devices to advertise any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.

9. **Building Construction or Repair.** The erection, excavation, demolition, alteration, or repair of any building between 9:00 p.m. and 6:00 a.m. of the
following day on week days and all day Sunday except where single individuals or families work on single family residences for their own occupancy. The ACC Inspector or the DPOA General Manager may, in cases of emergency, grant permission to repair at any time when either the ACC Inspector or the DPOA General Manager finds that the repair work will not affect the health and safety of persons in the vicinity.

10. **Noisy Gatherings.** Participation in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a Police Officer determines that a gathering is creating a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to stop the disturbance.

11. **Exceptions.**

1. This section shall not apply to sound produced by the following:

   A. Amplifying equipment used in connection with activities that the Diamondhead Property Owners Association, Inc. authorizes, sponsors or permits if the activity is conducted pursuant to the conditions set forth by the Diamondhead Property Owners Association, Inc.

   B. Church bells, chimes or carillons.

   C. Anti-theft devices.

   D. Machines or devices producing sound on or in authorized emergency vehicles.

**Landlord’s Liability.** Violations of this Rule & Regulation shall be the act of the owner of the residential dwelling unit even if the owner does not reside in the unit as well as the persons on the premises who violate this Rule & Regulation. The owner will only be liable for those violations occurring after receipt of written notice from the Diamondhead Property Owners Association, Inc. or its police department of a violation of this Rule & Regulation.

**Enforcement.** The Diamondhead Property Owners Association, Inc. or the Diamondhead Police Department shall enforce this Rule & Regulation and may be assisted by any Law Enforcement Agency either in concert or exclusively.

**Waiver.** The Diamondhead Property Owners Association, Inc. or Police Department may waive any of this Rule & Regulation provision if it
determines that strict enforcement of the provision would cause any undue hardship.

**Penalty.** Any Person violating this Rule & Regulation shall be guilty of any of the following: Arkansas Statute 5-71-207, Disorderly conduct. Disorderly Conduct is a Class C Misdemeanor, or Arkansas Statute 5-71-208, Harassment. Harassment is a Class A Misdemeanor. Each violation and each day a violation occurs or continues shall be a separate offense. Injunction, action for abatement or other appropriate civil remedies may also enforce this Rule/Regulation.

**Source:**

DPOA Board of Directors, January 22, 2003

**Reference:**

DPOA Law Enforcement

**Rule/Regulation #1995-5-13**

**Intent:**

To assure that right of ways are free and accessible.

**Rule/Regulation:**

It shall be impermissible to park boats, trailers or recreational vehicles or place any obstacles such as signs, building materials or equipment in a designated right of way area. Cars and trucks parked along or in the right of way must be attended and moved immediately upon request by the DPOA, its staff, and employees. Under no circumstances are vehicles to be regularly parked in the right of way or abandoned and left in the right of way. Should the POA identify a violation of this resolution, the vehicle shall be moved from the right of way by the DPOA. The owner of the vehicle shall pay all removal and storage fees.

**Source:**

Board of Directors Resolution, June 22, 1995

**Reference:**

Security and Safety