

Frequently Asked Questions (FAQs)

Additional FAQs added on April 16, 2016.

Compiled from Community Informational Meetings held on March 26, 2016 and March 30, 2016, and from questions received by the SPHOA.

Q: Is the SPHOA registered with the Colorado Secretary of State and in good standing?

A: Yes. The SAGE PORT HOMEOWNERS ASSOCIATION is a Nonprofit Corporation formed and registered on 11/26/1986 under the law of Colorado. The SPHOA has complied with all applicable requirements of the Office of the Secretary of State of the State of Colorado, and is in good standing.

Q: Is the SPHOA required to register with the Department of Regulatory Affairs (DORA)?

A: No. DORA's website explains the HOA registration requirements: "Colorado HB 13-1134 (2013) mandates that all common interest communities register with the HOA Information and Resource Center ...". The law applies to common interest communities. SPHOA is NOT a common interest community, and therefore, SPHOA is NOT required to register with DORA.

Q: What is the mission of the SPHOA?

A: The mission of the SPHOA is to serve the community by encouraging and facilitating fire mitigation, community safety, covenant compliance, neighborhood aesthetics and enhancement, and to promote personal involvement in these endeavors.

Q: Will the proposed 2016 Protective Covenant rewrite create a mandatory HOA?

A: No. In fact, the proposed Community Trash Program has a separate trash charge for HOA members and a separate trash charge for non-HOA members. Membership in the SPHOA is currently voluntary, and will remain voluntary even if the proposed 2016 Protective Covenants are approved.

Q: Will the proposed 2016 Protective Covenant rewrite create a common interest community, subject to the Colorado Common Ownership Interest Act (CCIOA)?

A: No. In 2009, a District Court judge ruled that Sage Port is not subject to CCIOA. That decision was based on several factors, including that Sage Port had no common property. If the proposed 2016 Protective Covenants are approved, Sage Port will still not have common property.

Q: Is this proposal really just a power grab to allow the HOA control over people's property, such as excessive fees, fines, liens and foreclosure?

A: No.

Q: I am confused by all the talk about the 1971 Covenants and the 2001 Covenants. Please explain.

A: Regarding the Protective Covenants for Sage Port, the original Covenants written by the developer were dated in 1971. In 2001, a majority of lot owners approved new Covenants. It is undisputed that a majority of the lot owners voted on and approved the 2001 Covenants. There is disagreement about if and when the 2001 Covenants took effect. Some believe that the 2001 Covenants have been in effect for Sage Port Filing 6A since 2001. The HOA has received the opinion from multiple attorneys who believe that the 2001 Covenants took effect for Sage Port Filing 2 in 2006. A vote FOR the proposed 2016 Protective Covenants allows the owners to resolve the disagreement without litigation or court involvement.

Q: Why are we picking just one company (HaulAway)?

A: The SPHOA requested bids from multiple trash companies in the area. HaulAway offered the best proposal at the lowest price.

Q: Is the community stuck with HaulAway even if they turn out to be bad?

A: No. In the future, another trash vendor could be selected if the need should arise.

Q: The price of the trash program looks attractive. Is there an agreement from the trash vendor (HaulAway) to keep the current rate for a period of time or that they will not increase for a period of time or over a specified amount?

A: Yes. The initial rate is fixed for one year and may be increased by up to 6% annually for increases in HaulAway costs. The 6% does not cover increases due to new federal, state, or local regulations or an increase in the disposal fee at the landfill. These are costs outside of the control of HaulAway and would affect all service providers, not just HaulAway.

Q: Are there SPHOA minutes with a record of approved action taken on the proposed community trash program?

A: Yes. Initial record of discussion of a Community Trash Collection Program appears in the 04/07/2014 Minutes. Approximately monthly, for the past 24 months, SPHOA meeting minutes contain a status report update on the Trash Collection Program, and/or contain a record of an approved motion for action related to the Trash Collection Program. Specifically, regarding approved actions:

07/13/2015 –

Board approved sending a letter to Survey respondents inviting them to a Focus Group/Town Hall Meeting about a Proposed Community Trash Program.

10/12/2015 –

Board approved proposing revised Covenants so as to provide a Community Trash Collection Program

03/07/2016 –

Board approved sending to all lot owners in Filings 2 and 6A, a letter, ballot, and supporting documentation regarding proposed changes to the Protective Covenants, a proposed Community Trash Collection Program and an invitation to Informational Meetings about the same.

Q: Are there SPHOA minutes with a record of approved action taken on the proposed rewrite to the Protective Covenants?

A: Yes. A record of discussion appears in the 10/06/2014 Minutes regarding the upcoming opportunity to revise the Protective Covenants in 2016. In the 02/02/2015 and 02/01/2016 Minutes from the Annual Meeting of Members, there is a record that members were told of the opportunity to revise the Protective Covenants in 2016.

In the 03/02/2015 Minutes, reviewing the current governing documents (includes Protective Covenants) was identified by the Board as a goal/objective. Three directors volunteered to lead such review. Over the past 13 months, the SPHOA Minutes report updates regarding the review, report the preparation and board review of draft documents, and the discussion with legal counsel regarding the governing documents.

Finally, in the 03/07/2016, the Board approved sending to all lot owners in Filings 2 and 6A, a letter, ballot, and supporting documentation regarding proposed changes to the Protective Covenants, a proposed Community Trash Collection Program and an invitation to Informational Meetings about the same.

Q: Am I giving up my property rights if I vote for the proposal?

A: No. In fact, you are exercising you property rights by casting a vote regarding this proposal. The fear should not be about losing your property rights. The true fear is a drop in your property value due to potential buyers avoiding this subdivision because they would rather not buy in an area where neighbors make untrue claims and spread misinformation and fear.

Q: I received a letter in the mail on April 1, 2016. The letter was on yellow paper and was unsigned. It predicted some future events that if they were to come true, sound pretty scary. Should I believe it?

A: No. This is an attempt by a few owners to spread fear that by voting yes, the SPHOA will become a mandatory HOA with excessive fees. Membership in the SPHOA is currently voluntary and will remain voluntary even if the proposed 2016 Protective Covenants are approved.

Original FAQs (from mid March 2016):

Q: Why is the SPHOA proposing a mandatory trash service?

A: Because, as a group, we can get better service at significantly lower cost plus less truck traffic means a safer and quieter neighborhood.

Q: What kind of trash service do neighboring HOA's have?

A: Antlers, Hidden Forest, and Sterling Pointe all have mandatory trash programs and currently use HaulAway. If Sage Port Filings 2 & 6A approve this program, we will have four (4) HOA's all using the same trash company which gives us a better bargaining position.

Q: Why is 100% participation required?

A: In order to receive a group discount, everybody must participate. This is a requirement of the trash company, not of the SPHOA. The trash company can operate at a greater level of efficiency if they know they will be stopping at all houses. SPHOA will be responsible for Invoicing and Collections.

Q: How will the SPHOA get 100% participation?

A: We propose a change to the 2001 Protective Covenants to require mandatory participation in the program. Assuming that the community approves the changes by formal vote, the change will become a legally binding agreement that will run with the land, just as the other provisions of the Protective Covenants do now.

Q: Will I have a choice of trash companies to use?

A: NO, SPHOA will go out for bids and select the best company to use. HaulAway has already been selected to use if we go forward because they offered the best service for the price.

Q: What if we don't have trash collection service and don't wish to participate?

A: If you don't have trash collection on the start date of this program, you may opt out of the required program. You will be asked to fill out an Exemption Request and you will be exempt from participating for as long as you own your home. However, when you sell, the new owners will be required to participate. Note: the exemption does not permit you to arrange for a different trash company.

Q: What if I have a complaint about the service?

A: You will need to call HaulAway directly and work it out with them. However, SPHOA does ask that you notify us with your complaint and if HaulAway corrected the situation to your satisfaction. By notifying SPHOA, we can keep track of the number of complaints throughout Sage Port and if they are resolved satisfactorily. This way we will know if there is a larger problem that we need to take up with HaulAway.

- Q:** Will I still be billed quarterly as I am with my current provider?
A: NO, you will be billed once a year by the SPHOA. Lower administration costs are achieved with Annual Billing and these savings are passed on to you.
- Q:** When will the SPHOA Trash Program become effective?
A: If the Protective Covenant changes are approved, we anticipate a start date of August or September 1, 2016.
- Q:** Will the price be fixed for several years?
A: The price will be fixed for the first year of and will be subject to change at the beginning of each new service year. Remember that if the SPHOA Trash Program is approved, then we will be one of four (4) HOA's in this area with a mandatory trash program. This is a large group of homes (over 600) and gives us better bargaining power.
- Q:** Will I need to notify my existing service provider of my change in service?
A: YES. You will need to cancel your existing trash service and arrange for any refunds due you.
- Q:** What will happen if I sell my home mid-term of my service year?
A: Because the Program is mandatory, your title company will prorate your trash costs on your closing statement just as they do now for property taxes. Title companies contact us whenever a property is being sold for mandatory payments to the HOA.
- Q:** Who is obligated to pay the Annual Trash Collection Costs if I am renting my home?
A: The registered owner of the property will be billed and responsible for payment. The owner can handle the collection of the trash collection fees as they see fit with the renter.
- Q:** Will this program require me to join the Sage Port HOA?
A: NO. Membership in the SPHOA will continue to be voluntary. However, if you are a dues paying member of the SPHOA, the SPHOA Administration Fee will be waived.
- Q:** Will SPHOA members enjoy any benefits or discounts?
A: YES, the SPHOA Administration Fee will be waived.