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JUDY D. MARTIN  
MOORE COUNTY, NC  
2002 DEC 11 02:20:39 PM  
BK: 2135 PG: 1-108 FEE: \$332.00  
INSTRUMENT # 2002023321

Upon recording, please return to  
Ms Mona Smith  
Mid South Club  
P O Box 8000  
Pinehurst, North Carolina 28734

Cross References

Book 878, Page 180  
Book 1057, Page 177  
Book 1160, Page 380

**AMENDMENT AND RESTATEMENT  
OF THE  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR PINEHURST NATIONAL EAST DEVELOPMENT  
AND  
PLANTATION LOT OWNERS' ASSOCIATION BY-LAWS**

This Amendment and Restatement is made by Plantation Investors, LLC, a North Carolina limited liability company ("Declarant"), with approval of the board of directors and the requisite votes of the membership of the Mid South Club Property Owners Association, Inc (formerly known as, respectively, "Pinehurst National East Lot Owners' Association' and "Plantation Lot Owners' Association") ("Association")

WITNESSETH

WHEREAS, that certain Declaration of Covenants and Restrictions for Pinehurst National East Development, was recorded on December 4, 1992, in Book 878, Page 180 et seq , Moore County Office of the Register of Deeds (as amended, the "Original Declaration"), and

WHEREAS, the Original Declaration has been previously amended by those certain instruments recorded at Book 1057, Page 177 et seq , and Book 1160, Page 380 et seq , Moore County Office of the Register of Deeds, respectively, and

WHEREAS, pursuant to Section 14 2 2 of the Original Declaration, the Original Declaration may be amended "upon the initiation of Declarant, at any time, upon approval of at least fifty-one (51%) percent of the votes of the Members (of the Association)", and

WHEREAS, pursuant to Article XV, Section 6 of the Plantation National East Lot Owners' Association By-Laws ("Original By-Laws"), the Original By-Laws may be amended by the "affirmative vote of the majority of Directors then holding office at any regular or special meeting of the Board of Directors", provided, any amendment "which shall have the effect of changing and altering any provision of the Declaration shall be adopted in accordance with the procedures established in the Declaration for its amendment and modification", and

WHEREAS, Declarant, as successor to Pinehurst National Corporation, the "Declarant" under the Original Declaration, desires to amend, restate, replace, and supercede the Original Declaration and the Original By-Laws, respectively, including all amendments thereto, in their entirety, and

WHEREAS, the amendment and restatement of the Original By-Laws may have the effect of changing or altering provisions of the Original Declaration, and

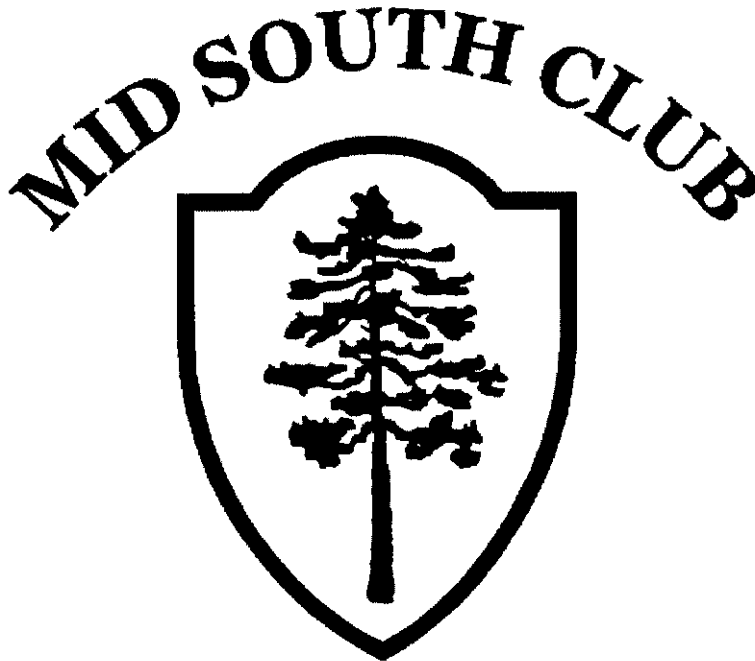
WHEREAS, Declarant has initiated the amendment and restatement of the Original Declaration and the Original By-Laws, and such amendment and restatement has been approved by at least fifty-one (51%) percent of the votes of the Members of the Association, and by the Association's board of directors,

NOW THEREFORE, the Original Declaration is hereby amended, restated, replaced, and superseded in its entirety by and with the attached Community Charter for Mid South Club ("Community Charter") and the Original By-Laws are hereby amended, restated, replaced, and superseded in their entirety by and with the Amended and Restated By-Laws of Mid South Property Owners Association, attached as Exhibit "D" to the Community Charter

**COMMUNITY CHARTER**

**FOR**

**MID SOUTH CLUB**



**HYATT & STUBBLEFIELD, P.C.**  
Attorneys and Counselors  
1200 Peachtree Center South Tower  
225 Peachtree Street, N E.  
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# COMMUNITY CHARTER FOR MID SOUTH CLUB

## PREAMBLE

This Community Charter ("**Charter**") provides a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of Mid South Club as a master planned community. The Mid South Club Property Owners Association, a nonprofit corporation whose membership consists of all owners of residential real property in Mid South Club, exists to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

The purpose of this Charter is to protect and enhance the many unique design, amenity, and civic elements which define the Mid South Club community. The Charter provides the appropriate framework to nurture the Community's positive attributes and positive relationships between all of Mid South Club's owners and residents. Inherent within this framework is the capacity for adaptability as the Community grows and values evolve over time.

This Charter amends, restates, replaces, and supercedes in its entirety that certain Declaration of Covenants and Restrictions for Pinehurst National East Development, recorded in Book 878, Page 180, *et seq*, Moore County Office of the Register of Deeds, as amended by that certain First Amendment to the Declaration of Covenants, Conditions, and Restrictions of Pinehurst National East Development, recorded in Book 1057, Page 177, *et seq*, Moore County Office of the Register of Deeds, and that certain Amendment of Declaration of Covenants, recorded in Book 1160, Page 380, *et seq*, Moore County Office of the Register of Deeds.

## Declaration of Covenant

The "**Community**," or "**Mid South Club**," as referred to in this Charter, consists of the property described in Exhibit "A" and any additional property made subject to this Charter in the future by amendment or supplement, as provided for in the following chapters. This Charter shall run with the title to such property, binding not only Plantation Investors, LLC, d/b/a Mid South Partners, its successors and assigns (the "**Founder**"), but also the future owners of any portion of the property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of such property. This Charter also shall be binding upon the Mid South Club Property Owners Association, its successors and assigns (the "**Association**") (The Association formerly was known as, respectively, "Pinehurst National East Lot Owners' Association" and "Plantation Lot Owners' Association ")

## **PART ONE: INTRODUCTION TO THE COMMUNITY**

*To accomplish great things, we must not only act, but also dream, not only plan, but also believe*  
*Anatole France*

# Chapter 1

## Governing Documents

*A community is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the community, agree to uphold. Those principles are set forth in the community's governing documents, which serve as a tie that binds the community together, give it structure, and provide guidance to all who participate in its growth and evolution.*

have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents, referred to in this Charter as the "**Governing Documents**," include this Charter and the other documents described in Table 1.1, as they may be amended. All Owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

### 1.1. Scope and Applicability.

The Community has been established and is administered pursuant to various documents that

<b>GOVERNING DOCUMENTS</b>	
<b>Community Charter:</b> (recorded)	this Community Charter for Mid South Club, which creates rights and obligations that are binding upon the Association and all present and future owners of property in Mid South Club
<b>Supplement:</b> (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property, designate Service Areas or Limited Common Areas, or any of the foregoing
<b>Articles of Incorporation:</b> (filed with North Carolina Secretary of State)	the Articles of Incorporation of Mid South Club Property Owners Association, as they may be amended, which establish the Association as a nonprofit corporation under North Carolina law
<b>By-Laws:</b> (attached as Exhibit "D")	the By-Laws of Mid South Club Property Owners Association, adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc. A copy of the By-Laws is attached as Exhibit "D"
<b>Design Guidelines:</b> (Founder adopts)	the design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to Units, including structures, landscaping, and other items on Units
<b>Rules:</b> (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within Mid South Club
<b>Board Resolutions:</b> (Board adopts)	the resolutions which the Board adopts to establish rules, policies, and procedures for internal governance and Association activities and to regulate the operation and use of the property which the Association owns or controls

Table 1.1 - Governing Documents

## Governing Documents

### 1.2. Additional Covenants.

The owner of any property within the Community may impose additional covenants on such property with such approval as may be required pursuant to Section 20.5. If the provisions of any such additional covenants are more restrictive than the provisions of this Charter, the more restrictive provisions control. The Association shall have standing and the power, but not the obligation, to enforce any such additional covenants.

### 1.3. Conflicts.

If there are conflicts between any of the Governing Documents and North Carolina law, North Carolina law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents will control.

Diagrams, tables, and explanatory text (text set apart in boxes with "key" icons) are used in the Governing Documents to illustrate concepts and assist the reader. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

Space has been set aside throughout this Charter to allow the reader to make notes. Those spaces, the heading that denotes the spaces, and any notes made are not part of this Charter.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

### 1.4. Definitions.

Capitalized terms used in the Charter have the meaning described in the paragraph where they

first appear in bold print. An index to defined terms may be found at the end of this Charter. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

### 1.5. Interpretation of Certain References.

**Consent or Approval** All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

**Discretion and Determination** All references in the Governing Documents to "**discretion**" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

**Maintenance** All references in this Charter to "**maintenance**" shall refer to maintenance, repair, rehabilitation, and renewal.


**Person** References in the Governing Documents to a "**person**" or "**persons**" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

**Recording** All references in the Governing Documents to a "**recorded**" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the official records of Moore County, or such other place designated as the official location for filing documents affecting title to real estate in Moore County in order to make them a matter of public record.

## Governing Documents

**Community-Wide Standard** Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the Board's or the Architectural Review Board's discretion. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard, however, the Community-Wide Standard may evolve as development progresses and as Mid South Club changes.

### 1.6. Term and Termination.



There is an old concept of law known as the "Rule Against Perpetuities" that restricts how long certain future interests in property may last. Typically, where the rule applies, the term of covenants cannot exceed 21 years after the death of a named person who is living at the time the covenants are recorded. North Carolina applies a variation of the traditional rules which allows future interests in land to last for a 90-year period.

This Charter shall be effective for a minimum of 50 years from the date it is recorded. After 50 years, this Charter shall be extended automatically for successive 10-year periods unless at least 75% of the then Owners and all Mortgagees sign a document stating that the Community Charter is terminated and that document is recorded within the year before any extension. In such case, this Charter shall terminate on the date specified in the termination document.

If any provision of this Charter would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can

affect title to property, that provision shall expire 90 years after this Declaration is recorded.

This section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

*That is the best government which desires to make the people happy, and knows how to make them happy.* Thomas McCauley

## NOTES AND THOUGHTS

## Chapter 2

### Community Administration

*Vibrant communities depend upon all of their stakeholders working together to uphold community standards and to achieve the vision and goals for the community. The Founder, the Association, the Owners, the builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This chapter identifies these stakeholders and describes their roles in administering the Community.*

#### 2.1. The Founder.

The Governing Documents set forth the Founder's vision for Mid South Club and set forth the founding principles that will guide the Community during the period of development and sale and thereafter. The Founder's proposed plan for development of the Community is described in the original development or land use plan(s) for the Community, prepared by Edward D. Stone, Jr. & Assoc., Wilmington, North Carolina, and approved by the Town of Southern Pines, North Carolina in August, 1988, as may be supplemented and amended, which encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (the "**Master Plan**"). However, the Founder is not obligated to submit property shown on the Master Plan to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Master Plan.

Various rights are reserved to the Founder in the Governing Documents with respect to development and administration of the Community. The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which is the period of time during which the Founder owns real property in the Community or has an unexpired option to expand the Community pursuant to Chapter 17.

Other rights may be exercised only during the "**Founder Control Period**," which is the pe-

riod of time that the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). The Founder Control Period terminates upon the first of the following to occur:

(a) when 80% of the total number of Units permitted by applicable zoning for the property described in the Master Plan have certificates of occupancy issued thereon and have been conveyed to Persons other than builders holding title for purposes of construction and resale,

(b) December 31, 2017, or

(c) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights, as specified in the By-Laws, for a limited period of time following termination of the Founder Control Period.

The Founder may assign its status and rights as the Founder under the Governing Documents to any Person who takes title to any portion of the property described in Exhibit "A" or "B" for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

#### 2.2. The Association.

The Association is the primary entity responsible for administering Mid South Club in accordance with the Governing Documents. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or North Carolina law specifically provide

## Community Administration

otherwise, the Board may exercise the Association's rights and powers without a vote of the membership

The Association may exercise all rights and powers which the Governing Documents and North Carolina law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It also may take any action reasonably necessary to effectuate any such right or privilege.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances), and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

### 2.3. The Owners.

Each Person that holds record title to a Unit, as defined in Chapter 3, is referred to in the Governing Documents as an "Owner." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Unit has more than one Owner, all co-Owners are jointly and severally obligated to perform the responsi-

bilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Association and through service to the Community in various committee and other roles, as described in this chapter and in the By-Laws.

### 2.4. Builders.

Much of the responsibility and credit for helping to create Mid South Club rests with the "Builders" -- those Persons who purchase one or more unimproved lots or parcels of land within Mid South Club for further subdivision or development and resale in the ordinary course of their business. The Builders have the same privileges and responsibilities as Owners during the time that they own Units for construction and resale, including the privileges of membership in the Association. In addition, the Founder may extend to Builders it designates some of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in the Community.

### 2.5. Mortgagees.

If a Unit is made subject to a mortgage, deed of trust, or other form of security instrument affecting title to a Unit ("Mortgage"), then the holder or beneficiary of that Mortgage ("Mortgagee") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 16.



## Chapter 3

### Community Structure and Organization

*The Community consists of parcels of property, referred to as Units, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for common use. Units may be assigned to Service Areas to permit the Association to provide special services and benefits to and at the expense of particular areas of the Community.*

#### 3.1. Designations of Properties Comprising the Community.

**Units** The Governing Documents refer to the homes and home sites in Mid South Club as "Units." A Unit is a portion of Mid South Club, depicted in a recorded subdivision plat or survey, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. A parcel of land is considered a single Unit until such time as a subdivision plat or survey is recorded subdividing it into more than one Unit. In the case of a building containing multiple dwellings for independent sale (e.g., attached condominium, townhouse, or airspace units), each dwelling which may be sold independently shall be a separate Unit.

**Common Area** Any property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit is referred to as "Common Area." The Common Area also includes any property that the Association holds under a lease and any easements in favor of the Association.

**Limited Common Area** Certain portions of the Common Area may be designated as "Limited Common Area" and assigned for the exclusive use or primary benefit of Units in speci-

fied portions of the Community. Limited Common Areas might include such things as entry features, recreational facilities, lakes, and landscaped medians and cul-de-sacs, among other things.

The Founder may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Association, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Units.

**Area of Common Responsibility** All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to as the "Area of Common Responsibility," regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in Chapter 9.

#### 3.2. Service Areas.

A Unit also may be part of one or more "Service Areas." A Service Area is a group of Units which share Limited Common Areas or receive benefits or services from the Association that it does not provide to all Units within the Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

## Community Structure and Organization

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2.

The Owners of Units within each Service Area may elect a "Service Area Committee" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

*Chaos is the law of nature, order is the dream  
of men. Henry Adams*

## NOTES AND THOUGHTS

## Chapter 4

### Association Membership and Voting Rights

*The Association is a mechanism by which each Owner can participate in the governance and administration of Mid South Club. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in each Owner allow the Owners to participate in Community affairs.*

#### 4.1. Membership.

The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, including Builders, and the Founder membership, which consists solely of the Founder.

**(a) Owner Membership.** Every Owner is automatically a member of the Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any recreational facilities available for use by members.

**(b) Founder Membership.** The Founder holds the sole Founder membership. The Founder membership shall terminate upon expiration of the Development and Sale Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

The Founder may, by Supplement, create additional classes of membership comprised of the

owners of Units within any portion of the additional property submitted to this Charter. The Founder shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

#### 4.2. Voting.

Each Unit is assigned one equal vote, except that no vote shall be exercised for any property exempt from assessment under Section 12.8. Further, during such time as there is a Founder membership, no vote shall be exercised for Units that the Founder owns, rather, the Founder's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

In any situation where there is more than one Owner of a Unit, the vote for that Unit shall be exercised as the co-Owners determine among themselves and advise the Association's Secretary in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

*Good order is the foundation of all things  
Edmund Burke*

#### NOTES AND THOUGHTS

## **PART TWO: COMMUNITY STANDARDS**

*The price of greatness is responsibility*

*Winston Churchill*

## Chapter 5

# Architecture, Landscaping, and Aesthetic Standards

*The Community derives its unique character from a mix of compatible architectural styles and from the cooperation of all Builders and Owners in upholding minimum design, landscaping, and aesthetic standards. This chapter and the Design Guidelines adopted pursuant hereto address the design and architectural standards for Mid South Club.*

### 5.1. General.

All site work, landscaping, irrigation, structures, improvements, and other items placed on a Unit in a manner or location visible from outside of any existing structures on the Unit ("**Improvements**") are subject to standards for design, landscaping, and aesthetics ("**Design Guidelines**") and the approval procedures set forth in this chapter, except as this chapter or the Design Guidelines may otherwise specify.

No prior approval is necessary to repaint the exterior of structures on any Unit using the most recently approved color scheme or to rebuild or restore any damaged structures on a Unit in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure, however, modifications to the interior of screened porches, patios, and any other portions of a Unit visible from outside a structure may require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless the Founder or its designee otherwise approves. Landscaping and irrigation plans are required for a Unit and must be prepared by a landscape architect registered or licensed in North Carolina or a designer approved by the ARB.

Approval under this chapter is not a substitute for any approvals or reviews required by the Town of Southern Pines or any municipality or

governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter, and such provisions of Exhibit "C" as pertain to design and construction, shall not apply to the Founder's design and construction activities or to the Association's activities during the Founder Control Period.

### 5.2. Design Review Authority.

The Architectural Review Board ("**Architectural Review Board**" or "**ARB**") shall exercise jurisdiction over matters within the scope of this chapter, as applicable. The ARB shall consist of at least three, but not more than seven, persons, at least two of whom shall at all times be Owners other than the Founder or representatives of Owners other than the Founder. During the Development and Sale Period, the members of the ARB shall serve and may be removed and replaced in the Founder's discretion. Thereafter, the Board shall appoint and may remove and replace the members of the ARB. The ARB also may, but need not, include Founder representatives, architects, engineers, or similar professionals. The Association may compensate ARB members in such manner and amount, if any, as the Board may determine appropriate.

Until expiration of the Founder's rights under this chapter, the ARB shall notify the Founder in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this chapter. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to the ARB.

The ARB may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees

## Architecture, Landscaping, and Aesthetic Standards

may also include reasonable costs incurred in having professionals review any application. The Board may include the compensation of such persons in the Association's annual operating budget.

### 5.3. Guidelines and Procedures.

(a) *Design Guidelines.* The Founder shall prepare Design Guidelines, which may contain general provisions applicable to all of Mid South Club as well as specific provisions that vary among uses or locations within the Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the ARB. The Design Guidelines are not the exclusive basis for the ARB's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder has sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2. Upon termination or delegation of the Founder's right to amend, the Board may amend the Design Guidelines.

Amendments to the Design Guidelines shall be prospective only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The ARB shall make the Design Guidelines available to Owners and their contractors upon request. In the Founder's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) *Procedures.* Unless the Design Guidelines provide otherwise, no activities described in Section 5.1 may begin on any portion of Mid South Club until a written application is submitted to and approved by the ARB. The application must be accompanied by plans and specifications and such other information as the ARB or the Design Guidelines require.

In reviewing each application, the ARB may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The ARB shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to Chapter 19, nor shall they be subject to judicial review so long as they are made in good faith and in accordance with required procedures.

The ARB shall make a determination on each application after receipt of a completed application with all required information. The ARB may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The ARB may (i) approve the application with or without conditions, (ii) approve a portion of the application and disapprove other portions, or (iii) disapprove the application.

The ARB shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all required submissions, however, with respect to any ARB determination subject to the Founder's veto right under Section 5.2, the ARB shall notify the appli-

## Architecture, Landscaping, and Aesthetic Standards

cant of the final determination within 40 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U S mail. *Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.*

If the ARB fails to respond in a timely manner, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

As part of any approval, the ARB may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the ARB, in its discretion, grants an extension in writing.

The Founder or the ARB may exempt certain activities from the application and approval requirements of this chapter, if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.



The purpose of the Design Guidelines is to maintain character and quality of appearance for the Improvements within the community and to ensure that Improvements are constructed in an orderly manner. The Design Guidelines may describe what types of building materials and design elements are preferred and others that are discouraged. The Design Guidelines also provide a specific procedure for submitting applications for proposed Improvements and describe how to carry out the construction of the Improvements once approval has been received.

**(c) Appeals Process.** After the appointment of the ARB by the Board, disapprovals of applications may be appealed by the applicant to the Board. To request an appeal, the applicant must submit to the Secretary of the Board a copy of the original application, the notification of the disapproval of the application, and a letter requesting an appeal no later than 15 days after the delivery of the notification of disapproval. The appeal request shall also contain a response to any specific concerns or reasons for disapproval, if any, listed in the notification of disapproval. The Board may (i) affirm the ARB's decision, (ii) affirm a portion and overturn a portion of the ARB's decision, or (iii) overturn the ARB's decision. The Board shall notify the applicant and the ARB in writing of its decision no later than 30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the ARB's decision. During the appeal process the Owner shall not commence any of the activities outlined in the application.

### 5.4. No Waiver of Future Approvals.

The people reviewing applications under this chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the ARB may elect

## Architecture, Landscaping, and Aesthetic Standards

not to require changes to objectionable features. However, the ARB may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

### 5.5. Variances.

The ARB may authorize variances from compliance with any of the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules. No variance shall (a) be effective unless in writing, (b) be contrary to this Charter, or (c) prevent the ARB from denying a variance in other circumstances. A variance requires the Founder's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.



In some circumstances, an Owner may find it difficult or impossible to comply with the requirements of the Design Guidelines. In that case, the Owner can file a request with the ARB to be excused from complying with the Design Guidelines. The ARB has the discretion to grant or deny the request.

### 5.6. Limitation of Liability.

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of Mid South Club, they do not create any duty to any Person. Review and approval of any application pursuant to this chapter may be based purely on aesthetic considerations. Neither the Founder nor the ARB is responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality,

value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Founder, the Association, its officers, the Board, any committee, and any member of any of the foregoing shall not be liable for (a) soil conditions, drainage, or other general site work, (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor as a Builder, or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or modifications to any Unit. In all matters, the Association shall defend and indemnify the Board, the ARB, and the members of each as provided in the By-Laws.

### 5.7. Certificate of Compliance.

Any Owner may request in writing that the ARB issue a certificate of compliance certifying that there are no known violations of this chapter or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

### 5.8. Builder Approval.

Prior to commencing any construction activities within Mid South Club, a Builder must obtain "Approved Builder Status" from the Founder during the Development and Sale Period. The Founder or the Association may take appropriate action to remove unapproved Builders from the Community or to otherwise prevent such Persons from performing construction activity within the Community. In addition, any Owner who permits an unapproved Builder to commence construction activities on his or her Unit



## Architecture, Landscaping, and Aesthetic Standards

shall be subject to sanctions as permitted in accordance with this Charter

## NOTES AND THOUGHTS

### 5.9. Enforcement.

Any construction, alteration, installation, work performed, or other action in violation of this chapter or the Design Guidelines shall be subject to enforcement action. Upon written request from the Founder or the Board, Owners shall, at their own cost and expense and within a reasonable time frame identified in the request, cure such nonconforming condition or remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to cure or remove and restore as required, the Founder, the Association, or the designees of either may enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the benefited Unit and collected as a Specific Assessment.

In addition, the Association and the Founder shall have the authority and standing to pursue all available legal and equitable remedies to enforce the provisions of this chapter and the ARB's decisions and the Association may levy other sanctions as provided in Chapter 8. If the Association or the Founder prevail, they may recover all costs including, without limitation, attorneys fees and court costs incurred in such enforcement action.

*We shape our buildings and our  
buildings shape us Winston Churchill*

## Chapter 6

### Maintenance, Repair, and Replacement

*One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat, attractive, and well-landscaped condition to enhance the overall beauty and aesthetic appeal of the community*

*This chapter describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed*

#### 6.1. Maintenance of Units.

Each Owner shall maintain his or her Unit, including all structures, landscaping, and other improvements comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Charter, any Supplement, or by law. As applied to vacant lots, the Community-Wide Standard shall require that that Unit be kept neat and free of debris and excessive growth. Automatic irrigation systems are required for landscaped areas on a Unit. Swale areas shall be kept grassed and mowed.

Each Owner shall maintain a 10-foot buffer strip along that portion of his or her Unit which fronts on a street. The Board may require that such area be kept grassed, irrigated, and mowed, or otherwise landscaped in accordance with prescribed standards, regardless of whether the Unit is vacant or contains a completed residence.

Each Owner also shall be responsible for maintaining and irrigating the landscaping and swale areas within that portion of any adjacent Common Area, public right-of-way, or private street lying between the Unit boundary and any wall, fence, or curb located on the Common

Area, public right-of-way, or private street within 10 feet of the Unit boundary. However, Owners may not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

#### 6.2. Individual Responsibility for Repair and Replacement.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless the Association carries such insurance (which it may but are not obligated to do). If the Association assumes responsibility for insuring a Unit, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Within three months of any damage to or destruction of a structure on a Unit, the Unit's Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

Additional recorded covenants applicable to any Service Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

## Maintenance, Repair, and Replacement

### 6.3. Maintenance and Repair of Party Walls and Similar Structures.

Each wall, fence, driveway, or similar structure built as part of the original construction on the Units that serves and/or separates any two adjoining Units shall be considered a party structure. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who use the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who shares the structure may restore it. If other Owners thereafter share in the use of the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

The right to and the obligation of contribution for party walls and similar structures between Owners, as provided in this section, shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a party structure shall be subject to the provisions of Chapter 19.

### 6.4. Remedy for Failure to Maintain.

If an Owner fails to maintain his or her Unit in accordance with the Community-Wide Standard, the Association may record a notice of violation and/or enter the property and perform such maintenance as is necessary to bring the Unit into compliance and assess all costs the Association incurs against the Unit and the Owner as a Specific Assessment. The Association's rights

in this regard are more particularly described in Section 8.2.

The obligation to maintain, repair, and replaced property in accordance with the Community-Wide Standard applies to all property within Mid South Club, including common properties which an owners association (other than the Association) owns or is otherwise responsible for the benefit of its membership. The Association shall have the same enforcement rights against any such owners association with respect to the obligation to maintain, repair, and replace its common properties as the Association has against Owners with respect to the obligation to maintain Units.

*Any activity becomes creative when the doer  
cares about doing it right, or doing it better  
John Updike*

## NOTES AND THOUGHTS

## Chapter 7

### Use and Conduct

*In order to maintain a residential environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this chapter sets forth basic standards regarding use, occupancy and transfer of interests in Units. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct, and activities within the Community to address particular needs and desires of the Community over time.*

#### 7.1. Use, Occupancy, and Transfer of Interests in Units.

**(a) Residential and Related Uses** Units may be used only for residential and related purposes, except as the Founder may otherwise authorize with respect to construction, marketing, and sale activities of the Founder and Builders it designates. A business activity shall be considered "related" to a residential use and thus permitted under this section only if conducted by a person or persons residing in the Unit and only if the business activity

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure,

(ii) complies with applicable zoning requirements,

(iii) does not involve regular visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community, and

(iv) is consistent with Mid South Club's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required

Leasing a Unit for residential purposes shall not be considered a "business" within the meaning of this subsection, provided that the Owner and any other Owners with whom such Owner is affiliated do not collectively lease or offer for lease more than one Unit at any time. This provision shall not preclude an institutional lender from leasing a Unit upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure. For purposes of this Charter, the terms "Lease" and "Leasing" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit

**(b) Leasing** Any dwelling that is leased shall be leased only in its entirety, separate rooms, floors, or other areas within a dwelling may not be separately leased, however, a detached "in-law suite" or "guest house" approved pursuant to Chapter 5 may be leased separate from the main dwelling

All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of

## Use and Conduct

**whether such a provision is specifically set forth in the lease.**

Within 10 days of a lease being signed, the Owner of the leased Unit shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner is responsible for providing the tenant copies of the Governing Documents. In addition to, but consistent with this sub-section, the Association or the Board may adopt Rules governing leasing and subleasing.

**(c) Transfer of Title** Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

**(d) Subdivision and Combination of Units** No Person other than the Founder and Builders authorized by the Founder shall subdivide or change the boundary lines of any Unit or combine Units without the Board's prior written approval. Any such action that the Board approves shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). In the absence of such recorded instrument, adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling (*i.e.*, the Owner of such adjacent Units shall be responsible for the separate assessments for each of such Units).

**(e) Timesharing** No Unit shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, unless such program is established by the Founder or with the Founder's prior written approval.

### 7.2. Rulemaking Authority and Procedures.

The Governing Documents establish a framework of covenants and conditions that govern the Community. The initial Rules attached as Exhibit "C" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Owners are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.3.

**(a) Board Authority** Subject to the notice requirements in subsection (c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting.

**(b) Membership Authority** Subject to the notice requirements in subsection (c), Owners representing a majority of the total votes in the Association also may adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Founder membership exists, any such action shall also be subject to the Founder's approval.

**(c) Notice** The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board at which such action is to be considered. At any such meeting, Owners shall have a

## Use and Conduct

reasonable opportunity to be heard before the proposed action is put to a vote

This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, parking and speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules

**(d) Effective Date** A Rules change adopted under this section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners

**(e) Conflicts** No action taken under this section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Charter other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Charter (exclusive of the Rules), the Charter shall control



Since it is impossible to foresee all potential situations and problems that may arise within the community, the Board has the authority to adopt and modify rules as needed to address these changing circumstances

### 7.3. Protection of Owners and Others.

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions

**(a) Similar Treatment** Similarly situated Units shall be treated similarly, however, the Rules may vary by Service Area or product type throughout the Community

**(b) Displays** No Rule shall abridge an Owner's right to display political, religious or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside structures on the Unit, including reasonable limitations on size and number

**(c) Household Composition** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area. In no event shall the number of occupants in a single dwelling exceed that permitted by local zoning ordinances and building codes

**(d) Activities Within Dwellings** No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance

**(e) Allocation of Burdens and Benefits** No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents

## Use and Conduct

This provision does not affect the right to increase the amount of assessments as provided in Chapter 12

**(f) *Leasing and Transfer of Units*** No Rule shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit, however, the Rules may require a minimum lease term of up to 12 months. Minimum lease terms may vary by Service Area or product types throughout the Community. The Rules may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

**(g) *Abridging Existing Rights*** No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.



This provision protects the existing personal property of Owners. It is intended to prevent the Board or the Community from forcing an Owner to get rid of something they have which was previously allowed. For example, if basketball hoops are allowed in driveways and then a Rule is passed prohibiting basketball hoops, the Board cannot force the Owners who have basketball hoops at that time to remove them. However, they can enforce this Rule against any other Owner desiring to install one. In addition, if an Owner sells his or her Unit the new Owner may be required to remove the basketball hoop.

**(h) *Reasonable Rights to Develop*** No Rule may unreasonably interfere with the Founder's ability to develop, market, and sell property in Mid South Club.

**(i) *Interference with Easements*** No Rule may unreasonably interfere with the exercise of any easement.

### 7.4. Owners' Acknowledgment and Notice to Purchasers.

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

*Peace rules the day when reason rules the mind*  
*Wilkie Collins*

## NOTES AND THOUGHTS

## Chapter 8

### Compliance and Enforcement

*The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by the Owners in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for non-compliance.*

#### 8.1. Compliance.

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. Each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants of or visitors to their Units, and for any damage to the Area of Common Responsibility that such occupants or visitors cause.



All Owners are required to abide by the Governing Documents. If an Owner fails or refuses to obey the Governing Documents the Owner may be subject to various penalties including fines and the loss of the right to use the Common Areas.

#### 8.2. Remedies for Non-Compliance.

The Association, the Founder, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents.

**(a) Sanctions Requiring Prior Notice and Hearing.** After written notice and an opportu-

nity for a hearing in accordance with the By-Laws, the Board may

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator, provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board),

(ii) suspend an Owner's right to vote (except that no hearing is required if the Owner is more than 90 days delinquent in paying any Base or Special Assessment);

(iii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, the Board may not limit ingress or egress to or from a Unit,

(iv) suspend services the Association provides (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association),

(v) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents),



