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COMMUNITY CHARTER

FOR

CALLAWAY RESORT RESIDENTIAL PROPERTIES

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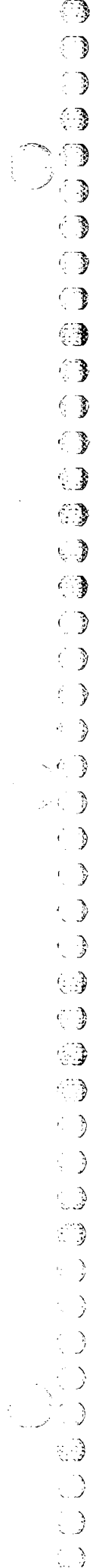


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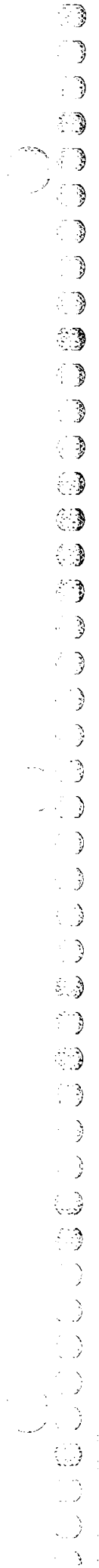


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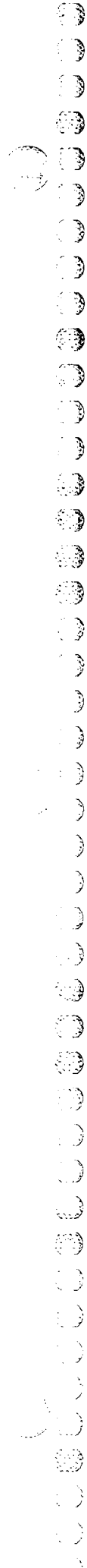


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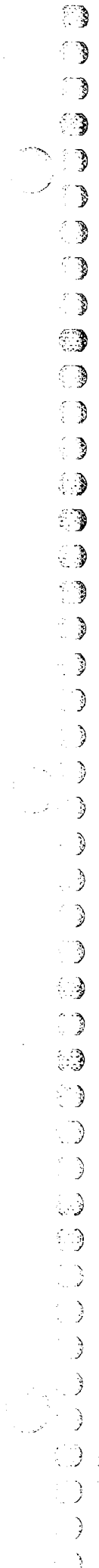


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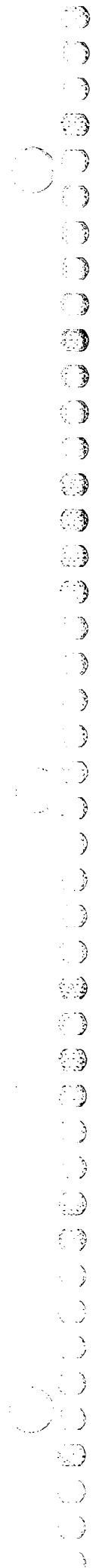
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**COMMUNITY CHARTER
FOR
CALLAWAY RESORT RESIDENTIAL PROPERTIES**

PREAMBLE

This Community Charter ("**Charter**") establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of residential properties within the Callaway Gardens Resort, a mixed-use, master planned resort community ("**Callaway Resort**"). An integral part of the development plan for the residential properties is the formation of Callaway Residential Owners Association, Inc., a nonprofit corporation, 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.

DECLARATION OF COVENANT

Cousins Real Estate Corporation, a Georgia corporation, its successors and assigns (the "**Founder**"), by executing and recording this Charter, declares that the property described in Exhibit "A" and any additional property made subject to this Charter in the future by amendment or supplement shall constitute the "**Residential Community**" or the "**Community**," as referred to in this Charter. This Charter shall run with the title to such property, shall govern the development and use of such property, and shall be binding upon the Founder and 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 shall also be binding upon the Callaway Residential Owners Association, Inc., its successors and assigns (the "**Association**").

PART ONE: INTRODUCTION TO THE RESIDENTIAL 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.

1.1. Scope and Applicability

The Residential Community is administered pursuant to various documents that have a legal and binding effect on all owners and occupants of property in 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

GOVERNING DOCUMENTS	
Community Charter: (recorded)	This Community Charter for Callaway Resort Residential Properties, which creates obligations that are binding upon the Association and all present and future owners of property in the Residential Community
Supplement: (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 covenants, obligations, or restrictions on such property, designate special areas as described in Chapter 3, or any or all of the foregoing
Articles of Incorporation: (filed with Secretary of State)	The Articles of Incorporation of Callaway Residential Owners Association, Inc., as they may be amended, which establish the Association as a nonprofit corporation under Georgia law
By-Laws: (initially attached to and recorded with this Charter as Exhibit "D")	The By-Laws of Callaway Residential Owners Association, Inc. adopted by the Board, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc.
Design Guidelines: (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
Rules: (initial set attached to and recorded with this Charter as Exhibit "C")	The Association's rules, adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within the Residential Community
Board Resolutions: (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 property which the Association owns or controls

Table 1.1 - Governing Documents

be amended. All Owners (as defined in Section 2.4) and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

1.2. Additional Covenants

The owner of any property within the Residential Community may impose additional covenants on its property with such approval as may be required pursuant to Chapter 18. 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 to enforce any such additional covenants and shall be obligated to do so if provided in a Supplement recorded pursuant to this Charter.

1.3. Conflicts

If there are conflicts between any of the Governing Documents and Georgia law, Georgia 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 (other than the Community Covenant, as defined in Section 2.8) recorded on any property within the Residential Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

If there is a conflict between the Community Covenant and the Charter, the Community Covenant shall control; provided, such instruments shall be interpreted so as to avoid conflict to the extent possible.

The Governing Documents use italicized summaries, diagrams, tables, and keynotes (text set apart in boxes with "key" icons) to illustrate concepts and assist the reader. **If there is a conflict between any italicized summary**

or 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. Any such notes are not part of this Charter and have no legal or binding effect.

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 Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms may be found immediately following the Table of Contents to 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, anyone 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

Governing Documents

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justifying, the decision, determination, action, or inaction.

Person. References in the Governing Documents to a "Person" 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 Harris County, Georgia, or such other place designated as the official location for filing documents affecting title to real estate in Harris County in order to make them a matter of public record.

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 Callaway Resort, 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 discretion of the Board or the Reviewer (as defined in Chapter 5). The Community-Wide Standard may or may not be set out in writing. The Founder and Callaway Gardens Resort, Inc. ("Resort"), acting together, initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as the Residential Community matures.

Maintenance. All references in this Charter to "maintenance" shall refer to maintenance, repair, and replacement.

Notice. All references in this Charter to "notice" or "notify" or any derivation of such

terms shall be deemed to refer to written notice by personal delivery, United States mail, private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, facsimile or electronic mail with written confirmation of transmission.

Notices shall be deemed to have been duly given and effective:

(a) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(b) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(c) if sent by facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people. Henry Clay

NOTES

Chapter 2

Community Administration

Vibrant communities depend upon all of their stakeholders working together to uphold community standards and 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 Residential Community.

2.1. The Founder

The Founder has established the vision for the Residential Community and, through the Governing Documents, has set forth the founding principles that will guide the Residential Community during the initial period of development and sale and thereafter. The Founder's proposed plan for development of the Residential Community is or shall be described in various land use plans for properties within and adjacent to or in the vicinity of Callaway Resort submitted for approval from time to time to Harris County and/or the City of Pine Mountain, Georgia, as may be supplemented and amended, which encompass all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (collectively, such land use plans are referred to as 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.

The Founder has reserved various rights in the Governing Documents with respect to development and administration of the Residential 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 or any "Founder Affiliate" owns real property in the Residential

Community or has an unexpired option to expand the Residential Community pursuant to Chapter 17. A "**Founder Affiliate**" is any Person that controls, is controlled by, or is under common control with the Founder, and any Person that is an owner, a member, a partner, or a shareholder of the Founder.

The Founder has reserved other rights that may be exercised only during the "**Founder Control Period**," which is the period of time during which the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). The Founder Control Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

- (a) when 90% of the total number of Units proposed for development under the Master Plan, as may be amended and supplemented from time to time, 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, 2038; or
- (c) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights for a limited period as provided in the By-Laws after the termination of the Founder Control Period.

Subject to Resort's rights under Section 18.10, 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 entity primarily responsible for administering the Residential Community 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 Georgia law specifically provide 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 Georgia law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

2.3. The Board

The Board is the body responsible for administration, management, and operation of the Association. The Board is selected as provided in the By-Laws and serves the same role as the board of directors under Georgia corporate law.

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, as defined in Section 3.1, 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.

2.4. The Owners

Each Person that holds record title to a Unit, as defined in Section 3.1, 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 responsibilities 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.

2.5. Builders

Much of the responsibility and credit for helping to create the Residential Community rests with the "Builders" - those Persons who purchase one or more unimproved lots or parcels of land within the Residential Community 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 any of the rights it has

reserved under the Governing Documents with respect to development, marketing, and sale of property in the Residential Community to such Builders as it may designate.

2.6. Neighborhood Associations

Portions of the Residential Community may be developed under a condominium form of ownership or may have other characteristics that require a separate owners association to administer additional covenants applicable to that particular area ("**Neighborhood Association**"). While a condominium association is required for a condominium under Georgia law, nothing in this Charter otherwise requires the creation of a Neighborhood Association. In all cases, the jurisdiction of any Neighborhood Association shall be subordinate to that of the Association.

Any Neighborhood Association shall be responsible for administering the additional covenants applicable to the property within its jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property it owns or which its covenants designate as being for the common benefit of its members.

2.7. Mortgagees

If a Unit is made subject to a mortgage 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 Residential Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 16.

2.8. Community Council

The Residential Community is located within the Callaway Resort, a privately owned and operated resort, which includes, among other things, one or more golf courses, public gardens and other public attractions, and preservation

areas. The Founder and Resort have created or shall create the Callaway Community Council, Inc. ("**Community Council**") as a vehicle for generating, enhancing, and preserving a genuine sense of community within the Callaway Resort, and for administering, managing, and maintaining properties, facilities, and services that benefit all members of the overall community. In addition, the Community Council shall serve to empower, encourage, and provide a means for each Owner and resident of the Residential Community to participate in and benefit from community-oriented affairs, services, programs, and activities. It is both the Founder's and Resort's intent that the Association and the Community Council work together and cooperate in performing these complementary roles within the Callaway Resort.

In addition to this Charter, the Association and all Owners shall be subject to the recorded Community Covenant for Callaway Resort ("**Community Covenant**") and to the Community Council's jurisdiction. The Community Council has rights and responsibilities that are described in and governed by the Community Covenant and its by-laws and articles of incorporation. Each Owner is bound by the Community Covenant and, among other things, is obligated to pay, through the Association, an annual fee to the Community Council, as described in the Community Covenant and this Charter.

Certain actions under this Charter require Community Council approval. Unless otherwise indicated, any reference in the Governing Documents to approval or other action by the Community Council refers to action by the Community Council's board of directors, as governed by the Community Council's governing documents. In all cases, the Community Council's approval of any Association action or other matter provided for under the Governing Documents shall not unreasonably be withheld, conditioned, or delayed.

In the event of a conflict between the Governing Documents and the Community Council's governing documents with respect to the Community Council's rights and responsibilities, the Community Council's governing documents shall control.

The Community Council is authorized to take action, or require that the Association take action, to enforce the Association's and each Owner's obligations and responsibilities under the Governing Documents with respect to the Rules, the Design Guidelines, maintenance requirements, and the Community-Wide Standard. The Community Council's right to take such action shall exist notwithstanding the failure to specify such right in any particular provision of any of the Governing Documents.

A community is like a ship; everyone ought to be prepared to take the helm. Henrik Ibsen

NOTES

Chapter 3

Community Structure and Organization

The Residential Community consists of parcels of property 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 are grouped into Neighborhoods and Election Districts to facilitate voting on Association matters. Units are assigned to Service Areas to permit the Association to provide special services and benefits to particular areas of the Residential Community.

3.1. Designations of Properties within the Residential Community

Units. The Governing Documents refer to the homes and home sites in the Residential Community as "**Units.**" A Unit is a portion of the Residential Community that may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. A Unit includes each lot or unit depicted on a recorded subdivision plat, survey, or condominium instrument. The term "Unit" refers to the land that is part of the Unit, as well as any structures or other improvements on the Unit.

A parcel of land is considered a single Unit until a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term does not include Common Areas, as defined below, common property of any Neighborhood Association, or property dedicated to the public.

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 less than all Units. 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 a Supplement. 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 in the Governing Documents 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. Neighborhoods

Units are grouped into "**Neighborhoods**" to facilitate a system of representative voting on matters as to which the Governing Documents require approval of the Association's membership. A Neighborhood may be comprised of any number of Units and may include Units of more than one housing type, as well as Units that are not contiguous to one another. Each Neighbor-

hood will elect one "Voting Delegate" to cast the votes allocated to Units in that Neighborhood on matters requiring a vote of the Owners, as described in Chapter 4.

The Founder initially will assign Units to a specific Neighborhood (by name or other identifying designation) either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally record a Supplement, or an amendment to this Charter or any previously recorded Supplement, to designate or change Neighborhood boundaries. Thereafter, the Board may amend this Charter or any Supplement to re-designate Neighborhood boundaries; however, the Board may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Units in the affected Neighborhoods.

3.3. Election Districts

The Founder or the Board may designate "Election Districts," consisting of the Units within one or more Neighborhoods, for the purpose of electing directors to the Board. The By-Laws set forth the method of establishing Election Districts. The number of Election Districts shall not exceed the total number of directors on the Board. The purpose of Election Districts is to provide for representation on the Board by groups with potentially dissimilar interests and to

avoid a situation in which particular groups are able to elect the entire Board due to the number of votes they represent.

Diagram 3.1 illustrates the Association's organizational structure after the Founder Control Period. The number of Neighborhoods and Election Districts shown on the diagram are for illustration purposes only. The actual numbers may be different.

3.4. Service Areas

Units may also be part of one or more "Service Areas" in which the Units share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Units within the Residential 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.

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.

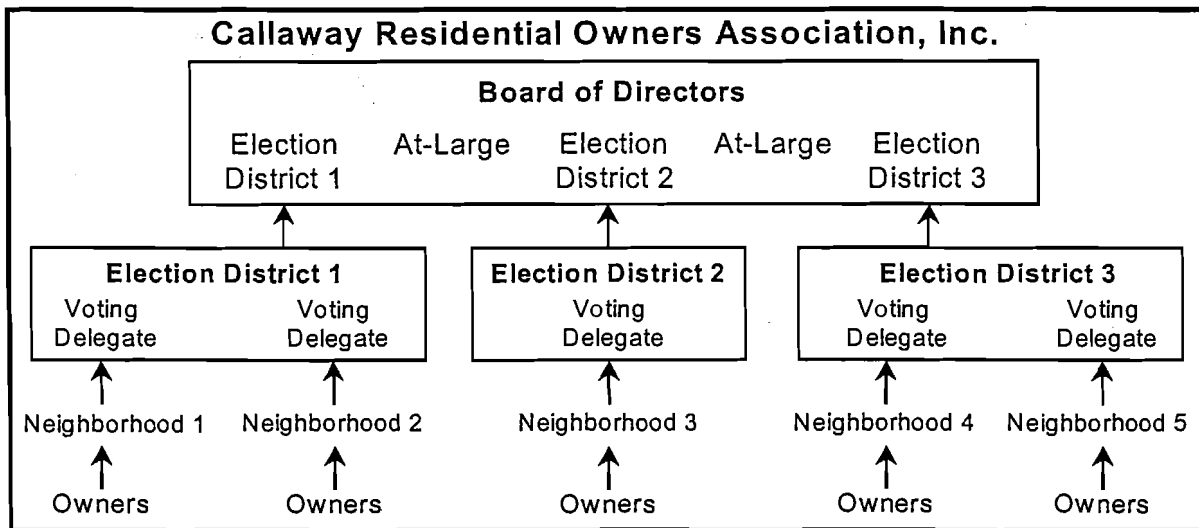


Diagram 3.1

Community Structure and Organization

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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

Chapter 4

Association Membership and Voting Rights

The Association is an entity through which each Owner can participate in the governance and administration of the Residential Community. 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 the Owners allow the Owners to participate in administration of the Residential Community and influence the outcome of major decisions.

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 Common Area recreational facilities available for use by Owners.

(b) **Founder Membership.** The Founder holds the sole Founder membership. The Founder membership shall terminate two years after expiration of the Founder Control Period, or on

such earlier date as the Founder determines and declares in a recorded instrument.

4.2. Voting

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Charter and the other Governing Documents. 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.

Due to the number of Units that may be developed in the Residential Community, the Governing Documents provide for a representative system of voting. The Owners of Units in each Neighborhood elect a "Voting Delegate" and an alternative Voting Delegate, in the manner provided in the By-Laws, to cast the votes of all Units in the Neighborhood on matters requiring a vote of the membership, except where the governing documents specifically require a vote of the Owners. However, until such time as the Board first calls for election of a Voting Delegate for a particular Neighborhood, each Owner of a Unit in such Neighborhood shall be considered a "Voting Delegate" and may personally cast the vote allocated to such Owner's Unit on any issue requiring a vote of the Voting Delegates under the Governing Documents.

The Voting Delegate or, in his or her absence, the alternative Voting Delegate, attends Association meetings and casts all votes allocated to Units in the Neighborhood that he or she represents on any matters as to which such Voting Delegate is entitled to vote under the Governing

Documents. A Voting Delegate may vote all votes it is entitled to cast in its discretion and may, but need not, poll the Owners of Units in the Neighborhood which he or she represents prior to voting. On any matter, other than election of directors, for which a Voting Delegate is entitled to cast more than one vote, the Voting Delegate may cast all such votes as a block or split them but shall not be entitled to fractionalize any single vote.

Voting Delegates are subordinate to the Board, and their responsibility and authority does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

In any situation in which an Owner is entitled personally to exercise the vote for his or her Unit, if there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners holding a majority of the ownership interest in the Unit determine among themselves. Any co-Owner may cast the vote for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently.

Good order is the foundation of all things.
Edmund Burke

NOTES

PART TWO: COMMUNITY STANDARDS

The price of greatness is responsibility.

Winston Churchill

Chapter 5

Architecture, Landscaping, and Aesthetic Standards

The Callaway Resort 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 explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Units.

5.1. General

All site work, landscaping, 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 adopted pursuant to this chapter ("**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 existing structures using the most recently approved color scheme or to rebuild or restore any damaged structures 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 structure visible from outside of the structure do 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 in its sole discretion otherwise approves.

Approval under this chapter is not a substitute for any approvals or reviews required by Harris

County, Georgia, or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter 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

(a) *The Founder.* The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of (i) the expiration of the Development and Sale Period, or (ii) such time as all Units planned for the property described in Exhibits "A" and "B" have been improved with dwellings for which a certificate of occupancy has been issued. In reviewing any application, the Founder shall act through a design review committee comprised of at least two persons it designates to act on its behalf and one person designated by Resort ("**Founder Design Committee**"). In reviewing and acting upon any request for approval, the Founder Design Committee shall act solely in the interest of the Founder and Resort and shall owe no duty to any other Person.

From time to time, the Founder Design Committee may delegate any or all of its rights under this chapter to other Persons or to the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Founder Design Committee's right to revoke such delegation at any time and reassume its prior control, and (ii) the Founder Design Committee's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this

chapter, the jurisdiction of Persons other than the Founder Design Committee shall be limited to such matters as the Founder Design Committee specifically delegates.

(b) *Design Review Committee.* Upon the delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Founder Design Committee's rights under this chapter, the Board shall appoint a Design Review Committee ("Design Review Committee" or "DRC") to assume jurisdiction over matters within the scope of the delegated authority or this chapter, respectively. The DRC shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. The Association may compensate DRC 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 DRC shall notify the Founder Design Committee 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 Design Committee shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to the DRC.

Unless and until such time as the Founder Design Committee delegates all or a portion of its reserved rights to the DRC or the Founder's rights under this chapter terminate, the Association shall have no jurisdiction over architectural matters.

(c) *Reviewer.* For purposes of this chapter, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer."

(d) *Fees; Assistance.* The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees 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 the initial Design Guidelines, which may contain general provisions applicable to all of the Residential Community as well as specific provisions that vary among uses, housing types, or locations within the Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval. The initial Design Guidelines are subject to Resort's approval, which approval shall not unreasonably be withheld, conditioned, or delayed.

The Founder, with Resort's consent, shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Founder's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC, unless the Founder also delegates the power to amend to the DRC. Upon termination or delegation of the Founder's right to amend, the Board may amend the Design Guidelines with the Community Council's consent.

Amendments to the Design Guidelines shall apply prospectively 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 eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer 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 within the scope of this chapter (as described in Section 5.1) may begin on any property within the Residential Community until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer 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 Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 19 or judicial review so long as they are made in good faith and in accordance with required procedures.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Re-

viewer 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 Reviewer 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 Reviewer 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 DRC determination subject to the Founder Design Committee's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 40 business days after its receipt of the final determination and all required submissions.

If the Reviewer 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 Reviewer 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 Reviewer, in its discretion, grants an extension in writing.


The Reviewer 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.

(c) *Appeals Process.* After the Board's appointment of the DRC, an applicant may appeal any disapproval of its application to the Board. To request an appeal, the applicant must submit to the Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the notification of disapproval. The Board may (i) affirm the DRC's decision, (ii) affirm a portion and overturn a portion of the DRC's decision, or (iii) overturn the DRC's entire decision. The Board shall notify the applicant and the DRC 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 DRC's decision. During the appeal process the Owner shall not commence any work requiring approval hereunder.

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 Reviewer may elect not to require changes to objectionable features. However, the Reviewer 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



When unusual circumstances exist that make it difficult or impossible to comply with a particular requirement of the Design Guidelines, the Owner may file a request with the Reviewer to be excused from complying with such requirement. The Reviewer has the discretion to determine when a variance is appropriate.

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify such a variance, however, the Reviewer shall under no circumstances be obligated to grant variances. No variance shall (a) be effective unless in writing; (b) be contrary to this Charter; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires the Founder Design Committee's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

5.6. Limitation of Liability

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Residential Community; 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. The Reviewer is not 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, Resort, the Ida Cason Callaway Foundation ("**Foundation**"), and their respective officers and directors, the Founder Design

Committee and its members, the Association, the Association's officers, the Board, the DRC, and any member of the Association 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 approved or featured as a Builder in the Community; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Association shall defend and indemnify the Board, the DRC, and the members of each, as provided in the By-Laws.

5.7. Certificate of Compliance

Any Owner may request in writing that the Reviewer 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.

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

NOTES

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 by Owners

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 or a Neighborhood Association pursuant to this Charter, any Supplement, or by law.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area lying between the Unit boundary and any wall, fence, or curb located on the Common Area 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. Maintenance of Neighborhood Association Property

A Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area lying between the boundary of its common property and any wall, fence, or curb located on the Common Area within 10 feet of its boundary. A Neighborhood Association shall not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

The Association may assume maintenance responsibility for property in any Neighborhood Association, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.4 or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The Association need not treat all similarly situated Neighborhood Associations the same.

6.3. Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

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 either a Neighborhood Association (if any) or the Association carries such insurance (which they may but are not obligated to do). If the Association assumes responsibility for insuring a Unit, the premiums for such insur-

Maintenance, Repair, and Replacement

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ance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Within 90 days after any damage to or destruction of a structure on a Unit, the 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 landscaped 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 Neighborhood Association or 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.

This section shall apply to a Neighborhood Association with respect to common property of the Neighborhood Association in the same manner as if the Neighborhood Association was an Owner and the common property was a Unit.

6.4. Maintenance and Repair of Party Walls and Similar Structures

Except as may otherwise be provided by law, a written agreement between Owners of adjacent Units, or other recorded documents applicable to adjacent Units:

(a) 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 share the party structure.

(b) 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, the Owner of any Unit served or separated by the structure may restore it. If other Owners thereafter share in using 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.

(c) 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 successor-in-title.

(d) 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.

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

NOTES

Chapter 7

Use and Conduct

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 Residential Community to address particular needs and desires of the Residential 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 Residential Community; and

(iv) is consistent with the Residential Community'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 limi-

tation, any occupation, work, or activity undertaken on an ongoing basis that 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 an Owner may not lease or offer for lease more than two Units at any time.

(b) *Leasing.* 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.

All tenants and all occupants of a leased Unit are bound by and obligated to comply with the Governing Documents, which shall apply regardless of whether such a statement is specifically set forth in the lease applying to the Unit.

The Owner of a 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 apprising the tenant of the applicability 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 and a Supplement may set forth additional, more restrictive provisions concerning leasing.

(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 whom the Founder may authorize 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.

(e) *Timesharing.* Units may 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 *only* if such right is specifically permitted in a Supplement the Founder approves.

7.2. Rulemaking Authority and Procedures



Since it is impossible to foresee all potential situations and problems that may arise within the Residential Community, the Board and the Voting Delegates have the authority to adopt and modify rules as needed to address new or changing circumstances.

The Governing Documents establish a framework of covenants and conditions that govern the Residential 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 Residential Community. Therefore, the Board and the Voting Delegates 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), the Voting Delegates representing a majority of the votes in the Association may also 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 or the Voting Delegates at which such action is to be considered. At any such meeting,

Voting Delegates shall have a 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, regulating the use of 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.

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 Neighborhood, Service Area, or housing type.

(b) *Displays.* No Rule shall prohibit an Owner or occupant from displaying 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.

(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. 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.

Minimum lease terms may be imposed by amendment to this Charter pursuant to Chapter 21 or by a Supplement; minimum lease terms may vary by Neighborhood, Service Area, or housing type. 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 a situation in which an Owner is forced to get rid of an item that was allowed prior to a change in the Rules. 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, or against any Owner who takes title to a Unit after the effective date of the new Rule.

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

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

(j) *Compliance with the Community-Wide Standard.* No Rule shall be in contravention of the Community-Wide Standard or be in

contravention of the use and operation of Callaway Resort as an environmentally sensitive community consistent with Resort's established land managed standards, as determined in Resort's reasonable discretion.

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.

A few strong instincts and a few plain rules suffice us. Ralph Waldo Emerson

NOTES

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 Residential Community. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Residential 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 noncompliance.

8.1. Compliance



All Owners and occupants of Units, as well as their tenants, guests, and other visitors, must abide by the Governing Documents. If any of them fail or refuse to comply with the Governing Documents, they may be subject to various penalties, including fines and the loss of the right to use the Common Areas.

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. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units and for any damage to the Area of Common Responsibility that such Persons may cause.

8.2. Remedies for Non-Compliance

The Association, the Founder, Resort, the Community Council, 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 sanctions listed below and any others described elsewhere in the Governing Documents.

(a) *Sanctions Requiring Prior Notice and Hearing.* After written notice and an opportunity 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, tenant, 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, nothing herein shall authorize the Board to 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

Compliance and Enforcement

in a non-emergency situation (including removing personal property that violates the Governing Documents);

(vi) enter upon a Unit or a Neighborhood Association's common property and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to subsection (b)(iii) below within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass;

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Unit in any situation that requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or a Neighborhood Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the Neighborhood Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the

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Governing Documents and to restore the property to its previous condition; and

(iv) bring suit at law for monetary damages or in equity to stop or prevent any violation, or both.

(c) Additional Powers Relating to Neighborhood Associations. The Association shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover its costs, as well as an administrative charge, and to impose sanctions as permitted under the Governing Documents.

8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material

nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys Fees and Costs

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

8.5. Enforcement of Ordinances

The Association, by contract or other agreement, may enforce applicable city and county ordinances. In addition, Harris County or the City of Pine Mountain may enforce ordinances within the Residential Community where applicable.

In the strength to set standards resides the strength to maintain control. Freda Adler

NOTES

PART THREE: ASSOCIATION OPERATIONS

Do what you can, with what you have, where you are.

Theodore Roosevelt

Chapter 9

Property Management

One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of the Residential Community. This chapter establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of the Residential Community.

9.1. Acceptance and Control of Association Property

(a) *Transfers and Conveyances by Founder.* The Founder and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Residential Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Founder's written request, the Association shall reconvey to the Founder any real property that the Founder or any Founder Affiliate originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

(b) *Management and Control.* The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or

no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

- (a) the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Residential Community to the extent that responsible governmental authorities do not maintain it to the Community-Wide Standard; and
- (c) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on, the Association.

Except to the extent such responsibility is assigned to the Community Council in accordance with the Community Covenant, the Association shall also be responsible for proper functioning of the stormwater drainage system serving the Residential Community, including maintenance, repair and replacement, as needed, of pipes, culverts, and other structures and equipment comprising the system. The Association shall have no responsibility for landscaping or other maintenance of Units burdened by stormwater drainage

easements unless otherwise specifically set forth in a Supplement or in a recorded agreement or plat.

The Association may maintain other property it does not own, including, without limitation, Units, property dedicated to the public, or property owned or maintained by a Neighborhood Association if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

9.3. Discontinuation of Operation

The Association shall maintain the Common Area facilities (other than Limited Common Area facilities) in continuous operation unless Voting Delegates representing 75% of the total votes in the Association consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall require the approval of the Board and the approval of Owners representing at least 75% (or such higher percentage as a Supplement may require) of the Units to which such Limited Common Area is assigned. During the Founder Control Period, the Founder's consent also is required to discontinue operation of any portion of the Common Area. This section shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, nor to preclude temporary closures or interruptions in operation as the Board may determine appropriate to perform maintenance or repairs.


9.4. Restoring Damaged Improvements

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain re-

liable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements (other than Limited Common Area improvements) unless Voting Delegates representing at least 75% of the total votes in the Association decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements shall require the approval of the Board and of Owners representing at least 75% of the Units in the affected Service Area. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.

Notwithstanding the above, during the Founder Control Period, damaged or destroyed Common Area improvements shall be repaired or reconstructed unless the Founder consents to the contrary.

 This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible *not* to repair or rebuild if the Owners who benefit from the Common Area prefer not to rebuild.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within the affected Service Area, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Delegates, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

9.5. Relationships with Other Properties

The Association may contract with the owner of any neighboring property to provide for sharing of costs associated with (a) maintenance and operation of mutually beneficial properties or facilities or (b) provision of mutually beneficial services.

*We cannot escape the responsibility of tomorrow
by evading it today. Abraham Lincoln*

NOTES

Chapter 10

Provision of Services

In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the Residential Community at large and individual Units. This chapter describes some of the services the Association may provide and the mechanism by which it may provide varying levels and types of services to different areas of the Residential Community.

10.1. Provision of Services to Units

In addition to services the Community Council provides, the Association may arrange for or provide services to Owners and their Units, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Units, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security, trash collection, landscape maintenance, pest control, caretaker services, and technology services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

In any contracts or agreements with third parties for the provision of services within the Residential Community, the Association may assign to the service provider the right to bill Owners directly and to pursue all legal or equitable remedies otherwise available to the Association in the collection of such bills.

To ensure consistency in scheduling and compliance with the Community-Wide Standard, the Board, in its discretion, may designate particular service providers (*e.g.*, trash collection, recycling, etc.) to be used by all Owners or by all Owners within a Service Area. In such case, the relationship between the service provider and the Owner may be direct and the expense of such service may be borne by the Unit Owner (*i.e.*, it would not be assessed through the Association).

10.2. Provision of Services to Service Areas

(a) *Service Areas Designated by Founder.*
The Association shall provide services to Units within any Service Area designated by the Founder pursuant to Section 3.4 as required by the terms of any Supplement applicable to the Service Area.

(b) *Service Areas Designated by Board.*
In addition to Service Areas the Founder may designate pursuant to Section 3.4, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiv-

ing from the Association (i) special benefits or services that are not provided to all Units, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least 67% of the Units within the proposed Service Area approve the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

10.3. Community Technology

(a) *Community Systems.* Without limiting the generality of Sections 10.1 and 10.2, and subject to the Founder's rights under Section 18.3, the Association is specifically authorized to provide, or to enter into contracts, including bulk rate service agreements, with other Persons to provide central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Residential Community ("Community Systems"). Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Residential Community Systems as the Board determines appropriate. The Association shall have no obligation to utilize any particular provider(s).

(b) *Opportunities for Community Interaction.* The Association may make use of computers, the Internet, and expanding technology to facilitate community interaction and encourage participation in Association activities. For example, the Association may sponsor a commu-

nity cable television channel, create and maintain a community intranet or Internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and residents to interact and participate in Association-sponsored activities. To the extent Georgia law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means.

I think there is a world market for maybe five computers.
Thomas Watson, Chairman of IBM, 1943

NOTES

Chapter 11

Association Insurance

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

11.1. Required Coverages

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on

- (i) the Common Area;
- (ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty; and
- (iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

In addition, if a Supplement so specifies, the Association shall obtain and maintain property insurance on the insurable improvements within

a Service Area, which insurance shall comply with the above requirements.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;


(d) Directors and officers liability coverage; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-fourth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replace-

ment costs in the Harris County area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this section requires.

11.2. Deductibles

 The Board may hold any Persons who cause damage to insured improvements responsible for the insurance deductible payable on any insurance claim related to such damage.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

11.3. Policy Requirements

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Georgia that satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;


(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

 Subrogation is a legal concept by which one person is substituted in the place of another with respect to a lawful claim or right. For example, once they have paid a claim by an insured party, insurance companies generally have the right to step into the shoes of the insured party and sue anyone that the insured party could have sued.

In addition, the Board shall use reasonable efforts to secure insurance policies that list Resort,

the Foundation, and the Owners as additional insureds and provide:

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

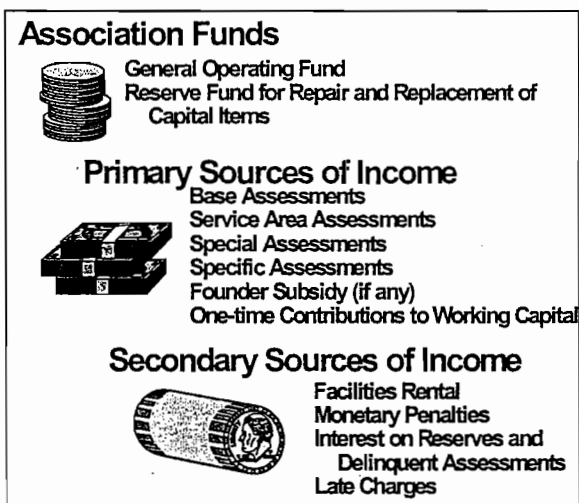
Keeping a little ahead of conditions is one of the secrets of business. Charles M. Schwab

NOTES

Chapter 12

Association Finances

This chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments that this chapter authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this chapter.



12.1. Association Expenses

(a) *Common Expenses.* Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "Common Expenses." Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Common Expenses shall not include any expenses incurred during the Founder Control Period for initial development or original construc-

tion costs unless Voting Delegates (other than Founder appointees) representing a majority of the total vote in the Association approve such expenditure.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) *Service Area Expenses.* All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance, and operation of Limited Common Areas, or in providing other benefits and services to a Service Area that are not provided to other portions of the Residential Community, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "Service Area Expenses." Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

(c) *Community Council Contributions.* The Owner of each Unit is obligated to pay a contribution to the Community Council as provided in the Community Covenant. The amount of the per Unit contribution to the Community Council shall vary throughout the Residential Community and, as to each Unit, shall be specified in a Supplement applicable to that Unit. The Association shall include such contributions as a line item in each Service Area budget and collect the contribution from the Unit Owners and pay

such amounts to the Community Council in accordance with the Community Covenant.

(d) *Callaway Gardens Resort Membership Fees.* The Owner of each Unit shall receive, as an appurtenance of Unit ownership, a family membership in Callaway Gardens, which membership may require the payment of membership fees to the owner of Callaway Gardens, as determined in such owner's discretion. The Association shall include such membership fees as a line item in the Common Expense or Service Area budget and collect the contribution from the Unit Owners and pay such amounts to the owner of Callaway Gardens or its designee. The terms and conditions of such family membership shall be established by the Founder and Resort and may be set forth in a separate "Recreational Covenant," recorded or to be recorded against the Residential Properties; provided, such terms and conditions shall be at least as favorable in all respects as those offered to non-Owners for family memberships in Callaway Gardens.

12.2. Budgeting for and Allocating Association Expenses

(a) *Preparation of Budget.* At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful

life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including amounts to which the Association is entitled pursuant to any covenant or agreement to share costs), and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to subsections (b) and (c).

(b) *Calculation of Base Assessments.* The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years and any income anticipated from sources other than assessments against the Units, shall be allocated equally among all Units subject to assessment under Section 12.5 and levied as a "Base Assessment."

(c) *Calculation of Service Area Assessments.* The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Units in the Service Area that are subject to assessment under Section 12.4 and levied as a "Service Area Assessment." Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service

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Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) *Founder's Subsidy Option.* The Founder may, but shall not be obligated to, reduce the Base Assessment or any Service Area Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

(e) *Notice of Budget and Assessment; Right to Disapprove.* The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment and any Service Area Assessment to be levied pursuant to such budgets, to each Owner at least 30 days prior to the due date of the assessments to be levied pursuant to such budget. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Voting Delegates representing at least 75% of the total votes in the Association and by the Founder Member, if such exists. Each Service Area budget shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items that are attributable to services or benefits requested by the Service Area and shall not apply to any item the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense

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budget, on petition of the Voting Delegates as provided for special meetings in the By-Laws, and in the case of a Service Area budget, on petition of Owners of at least 67% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(f) *Budget Revisions.* The Board may revise the budget and adjust the Base Assessment or Service Area Assessments anytime during the year, subject to the same notice requirements and rights to disapprove set forth in subsection (d) above.

12.3. Special Assessments

The Association may levy "Special Assessments" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except as otherwise specifically provided in this Charter, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Voting Delegates representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among all such Units. Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.2(c). In addition, as long as the Founder membership exists, any Special Assessment shall also be subject to the Founder's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in

installments extending beyond the fiscal year in which the Special Assessment is approved.

12.4. Specific Assessments

The Association may levy "Specific Assessments" against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of optional services which the Association may offer (which might include the items identified in Section 10.1). Specific Assessments for optional services may be levied in advance of the provision of the requested service;

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b); and

(c) to cover the Unit's pro rata share of any costs that the Association incurs in bringing the Service Area of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Owners of Units in the Service Area and an opportunity for such Owners to be heard before levying any such assessment.


The Community Council also shall be authorized to take such corrective action to cure violations of the Governing Documents or to bring a Unit into compliance with the Community-Wide Standard. If the Community Council undertakes such action, it may assess the Association or the Owners for all costs incurred. If the Association is assessed, it, thereafter, may seek reimbursement from the violating Unit(s) as a Specific Assessment.

12.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the date: (a) the Unit is made subject to this Charter or (b) the Board determines a budget and levies assessments pursuant to this section, whichever is later. The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

12.6. Obligation for Assessments

 By buying a Unit in the Residential Community each Owner agrees to pay all assessments levied against his or her Unit. If the Owner does not pay on time, that Owner will be charged late fees on all past due amounts. Owners may not claim a reduction in their assessments due to action or inaction by the Association.

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(a) *Personal Obligation.* By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 12% per annum or such higher rate as the Board may establish, subject to the limitations of Georgia law), late charges as determined by Board resolution, costs, and reasonable attorneys fees shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of as-

essment a certificate signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) *Founder's Financial Obligations to Association.* The Founder shall be liable for assessments on any Units it owns that are subject to assessment under this section, except that during the Founder Control Period, the Founder may satisfy the obligation to pay Base Assessments, Service Area Assessments, and Special Assessments, on Units which the Founder or any Founder Affiliate owns either by paying such assessments in the same manner as any other Owner, or by paying (i) any shortfall under the Common Expense or Service Area budget, as applicable, resulting from events other than failure of other Owners to pay their assessments, and (ii) any contributions to reserves budgeted to Units owned by the Founder or any Founder Affiliate in accordance with the Common Expense or Service Area budget. Unless the Founder otherwise notifies the Board in writing at least 30 days before the beginning of each fiscal year, the Founder and Founder Affiliates shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Founder Control Period, the Founder and Founder Affiliates shall pay Base Assessments and Service Area Assessments on any Units they own that are subject to assessment in the same manner as any other Owner liable for such assessments.



During the Founder Control Period, the Founder may choose to pay the difference between the Association's budgeted and actual expenses rather than paying assessments on the Units it owns.

Regardless of the Founder's election under this section, any financial obligations of the Founder or a Founder Affiliate to the Association

may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.


12.7. Lien for Assessments

(a) *Existence of Lien.* The Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of Georgia law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior and (b) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit.

(b) *Enforcement of Lien.* The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) *Effect of Sale or Transfer.* Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid

assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment, including such acquirer, its successors and assigns.

 If an Owner does not pay his or her assessments on time, the Association may foreclose its lien on the Owner's Unit, causing it to be sold to pay the past due assessments. The Association may also sue an Owner in court to recover past due assessments.

12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Founder as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members or owned by all of the members of a Neighborhood Association as tenants-in-common.

In addition, both the Founder and the Association shall have the right, but not the obligation, to grant exemptions to schools, houses of worship, hospitals, police or fire stations (or other similar public service uses) or Units owned by Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code and used by such Persons for purposes listed in Section 501(c) of the Internal Revenue Code. Exemptions granted by the Founder shall be binding on the Association.

12.9. Capitalization of Association

The first Owner of each Unit other than the Founder or a Builder designated by the Founder shall make a contribution to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment and Service Area Assessment applicable to such Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Association immediately upon transfer of title for its use in covering initial start-up expenses, operating expenses, and other expenses it incurs pursuant to this Charter and the By-Laws.

12.10. Use and Consumption Fees

The Association may offer services or facilities for which it does not recover its costs through assessments under this Article. The Board may charge use and consumption fees to any Person who chooses to use or participate in such services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

NOTES

**PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE RESIDENTIAL
COMMUNITY**

You don't get harmony when everybody sings the same note.

Doug Floyd

Chapter 13

Easements

The easements created in this chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of owners, the Founder, the Association, and others over property within the Residential Community. Some of these rights are related to development and construction within the Residential Community and on adjacent property, while others relate to the rights of the Association to come upon property of others to fulfill its responsibilities and the interrelationships between the Residential Community and the owners of adjacent property.

13.1. Easements in Common Area



An easement is one person's right to go onto the property of another.

The Founder grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) Certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area;" and
- (d) The Board's right to:
 - (i) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use the Common Area, and to charge use fees for such use;
 - (ii) suspend an Owner's right to use Common Area facilities;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Charter;

(iv) rent any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person, including the Community Council;

(v) permit use of any recreational facilities situated on the Common Area by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;

(vi) permit use of any Common Area facilities, at such charge or no charge as the Board may determine appropriate, for the purpose of offering and conducting classes or other activities for interested Owners and occupants, whether offered on a for profit or nonprofit basis; and

(vii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

13.2. Easements of Encroachment



An encroachment occurs when a person's home, fence, or other structure extends onto his or her neighbor's property. This section permits minor, inadvertent encroachments to remain.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance

and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of less than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

13.3. Easements for Utilities and Other Infrastructure

(a) *Installation and Maintenance.* The Founder reserves for itself, during the Development and Sale Period, and grants to the Association, the Community Council, and designated utility providers, in perpetuity, non-exclusive easements throughout the Residential Community (but not through a structure) to the extent reasonably necessary to:

(i) install utilities and infrastructure, other Community Systems, security and similar systems, drainage systems, and other improvements to serve the Residential Community and/or the Callaway Resort;

(ii) install walkways, pathways and trails, street lights, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or

service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) *Specific Easements.* The Founder also reserves the non-exclusive right and power to grant and record such specific easements consistent with Section 13.3(a) as it deems necessary to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) *Minimal Interference.* All work associated with the exercise of the easements described in subsections (a) and (b) of this section shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

13.4. Easements to Serve Additional Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions

in connection with development of such property.

If the above easement grants permanent access to any property which is not submitted to this Charter, the Founder, or its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

13.5. Easements for Maintenance, Emergency, and Enforcement



The Association may come onto the exterior portions of a Unit to do maintenance or to address violations of the covenants but will give prior notice unless there is an urgent need to enter the property before notice can be given.

The Founder grants to the Association easements over the Residential Community as necessary to enable the Association to fulfill its maintenance responsibilities under Section 6.2 and its enforcement rights under Section 8.2, and to the Community Council to fulfill its maintenance responsibilities under the Community Covenant and to exercise its enforcement rights under this Charter and the Community Covenant.

The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

13.6 Easements for Cross-Drainage

All portions of the Residential Community shall be burdened with easements for natural drainage of stormwater runoff from other portions of the Residential Community; provided, no Person shall alter the natural drainage on any Unit to increase materially the drainage of stormwater onto adjacent Units or other portions of the Residential Community without the consent of the Owner(s) of the affected property and the Board. The Founder's consent also is required for any such alteration during the Development and Sale Period.

13.7. Easements for Golf Course



If a golf course is close to your Unit, you can expect that golf balls and people will come near your Unit. This section puts Owners on notice that activities relating to a golf course will affect Units next to a golf course.

The Residential Community is burdened with an easement permitting golf balls unintentionally to come upon areas adjacent to or in the vicinity of a golf course, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood Association, or the exterior portions of a Unit to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Founder; the Association or its members (in their capacities as such); Cousins Real Estate Corporation, Callaway Gardens Resort, Inc., the Ida Cason Callaway Foundation, Callaway Gardens Golf Resort, LLC, or their respective successors, successors-

Easements

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in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); any officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner of any golf course within or adjacent to any portion of the Residential Community, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course.

Any portion of the Residential Community immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. **Under no circumstances shall the Founder, the Association, or the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.**

The owner of any golf course within or adjacent to any portion of the Residential Community, its successors and assigns, shall have a perpetual, exclusive easement of access over the Community for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

13.8. Sign and Landscape Easements

Certain Units within the Residential Community contain a "Sign and Landscape Easement," or similarly denominated easement area, as shown on a recorded plat ("**Easement Area(s)**"). The Founder grants to the Association a perpetual, non-exclusive easement on, over, under, through, and across such Easement Areas for the maintenance, repair, and replacement of community landscaping, signage, and entry features installed thereon by the Founder or the Associa-

tion. The Association shall maintain the Easement Area as a Common Expense in accordance with the Community-Wide Standard.

All work associated with the exercise of the easement rights described above shall be performed in such manner as to minimize interference with the use and enjoyment of those portions of a Unit lying outside of the Easement Area. The Association shall use reasonable efforts to confine all work associated with such easement rights to the Easement Areas; provided, to the extent reasonably necessary to perform such work, access over other portions of a Unit shall be permitted. Upon completion of any work, the Association shall restore any disturbed portion of the Unit, to the extent reasonably possible, to its condition prior to the commencement of the work.

No Person shall place or construct any improvement or thing within the Easement Areas without the Association's prior written consent; which consent may be withheld in the Association's discretion, nor shall any Person take any action that otherwise interferes with the Association's exercise of its easement rights under this Section.

Setting a goal is not the main thing. It is deciding how you will go about achieving it and staying with that plan. Tom Landry

Chapter 14

Callaway Gardens Amenities

Various recreational and other facilities are located within or in the vicinity of the Residential Community that are privately owned and operated by Persons other than the Association. Those facilities are not part of the Common Area of the Residential Community, and ownership of property in the Residential Community does not give any person the right to use them. This chapter explains the right of the owners of those facilities to determine if and on what terms they wish to make their facilities available for use by Owners. It also establishes certain rights for the benefit of the owners of such facilities.

14.1 Operation of Callaway Gardens Amenities

The resort and gardens located in the vicinity of the Residential Community and owned by the Foundation and by Resort is commonly known as "Callaway Gardens." The Foundation remains devoted to continuing its history of stewardship of Callaway Gardens and remains committed to the its long-standing mission of providing at Callaway Gardens a wholesome family environment in which all may find beauty, relaxation, inspiration and recreational opportunities.

Consistent with this mission, the Foundation and Resort have covenanted and agreed with the Founder to maintain or cause to be maintained within Callaway Gardens a resort and gardens with amenities such as lodging, restaurants, golf courses, bike and walking paths and lakes (such amenities, now or hereafter located within Callaway Gardens, are referred to as "Callaway Gardens Amenities"), subject, to the conditions set forth in this section.

The Founder, the Association, and each Owner (by accepting a deed to a Unit), acknowledge, covenant, and agree that, by virtue of the acquisition of any portion of the Residential

Community, they shall not have any ownership or proprietary interest in any of the Callaway Gardens Amenities. The Foundation and Resort hereby reserve and shall hereafter have the right to (i) alter, modify, or relocate the Callaway Gardens Amenities; (ii) temporarily close certain of the Callaway Gardens Amenities for repairs, renovation, refurbishment, or reconstruction; (iii) require that the use of any of the Callaway Gardens Amenities be subject to admission or use fees, membership requirements, or similar requirements; and (iv) impose such rules and regulations as may be established from time to time by the Foundation or Resort regarding use of the Callaway Gardens Amenities; provided, any admission or use fees, membership requirements, rules and regulations regarding the use of the Callaway Gardens Amenities as applied to residents of the Community will be no less favorable than the rules applicable to the use of the amenities by the general public.

14.2. Operations; Conveyance of Callaway Gardens Amenities

All Persons, including all Owners, are advised that, except as provided in Section 14.1, no representations or warranties have been made or authorized by the Founder, any Founder Affiliate, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership, operation, use, management, or membership structure of the Callaway Gardens Amenities. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner(s) of the Callaway Gardens Amenities.

The ownership, operation, use, or management of any of the Callaway Gardens Amenities

(or any portion of the Callaway Gardens Amenities) may change at any time and for any reason, in the discretion of the amenity owner. Consent of the Association or any Owner shall not be required to effectuate any change in ownership or operation of the Callaway Gardens Amenities, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

14.3. Assumption of Risk and Indemnification – Golf Course

Each Owner acknowledges by acceptance of a deed to a Unit that he or she has independently inspected the site plan approved by the Founder and has determined the location and configuration of his or her Unit relative to any golf course. In addition, each Owner acknowledges that he or she has considered the risk of intrusion of golf balls, golf clubs, or other parts thereof, golfers, and/or overspray from the golf course and has taken title to the Unit based on his or her independent investigation and analysis.

Each Owner, by its purchase of a Unit in the vicinity of a golf course, hereby expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of the golf course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset); (b) noise caused by golfers and other users of the club's facilities; (c) use of pesticides, herbicides, and fertilizers; (d) use of effluent in the irrigation of the golf course; (e) reduction in privacy caused by constant golf traffic on the golf course and to and from the golf course, or the removal or pruning of shrubbery or trees on the golf course property; (f) errant golf balls and golf clubs; and (g) design or redesign of the golf course.

Each Owner agrees that the Founder, Resort, the Foundation, Callaway Gardens Golf Resort, LLC, the Association, and their respective officers, directors, affiliates, joint venturers, or agents shall not be liable to any Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy, based upon, due to, arising from, or otherwise related to the proximity of the Owner's Unit to the golf course, including, without limitation, any claim arising in whole or in part from the negligence of any such Persons. The Owner hereby agrees to indemnify and hold harmless the Founder, Resort, the Foundation, Callaway Gardens Golf Resort, LLC, the Association, and their respective officers, directors, agents against any and all claims by the Owner's visitors, tenants, and others upon such Owner's Unit.

14.4. Changes to a Golf Course

Nothing in this Charter shall prohibit or restrict a golf course owner from adding trees or other landscaping to any portion of its golf course from time to time or from changing the location, configuration, size, and elevation of the tees, bunkers, fairways, and greens from time to time. Any additions or changes to a golf course may diminish or obstruct any view from the Units, and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Half our life is spent trying to find something to do with the time we have rushed through life trying to save. Will Rogers

Chapter 15

Disclosures and Waivers

This chapter discloses some important information about the Residential Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting a deed to property in the Residential Community, also accepts and agrees to the matters set forth in this chapter.

15.1. Builder Performance

The Founder shall not be responsible for, or a guarantor of, performance by any Builder of all or any of its obligations to any Owner pursuant to any contracts for the sale of a Unit or the construction of a structure on a Unit or otherwise. The Founder does not warrant, and makes no representations with respect to, performance by any Builder under any contract or otherwise.

Each Owner acknowledges and agrees that the Founder shall not have any liability or obligation to any Owner relating to or arising out of any contract with a Builder to which the Founder is not a party, or otherwise, by reason of any failure by a Builder fully and adequately to perform its obligations to Owner.

15.2. Excavation and Other Construction Activities

All Owners are hereby placed on notice that the Founder, any Founder Affiliate, and/or its agents, contractors, subcontractors, licensees and other designees, successors, or assignees may be, from time to time, conducting excavation, construction, and other activities within or in proximity to the Residential Community. By the acceptance of a deed or other conveyance or Mortgage, leasehold, license, easement, or other interest, and by using any portion of the Residential Community, each Owner automatically acknowledges, stipulates, and agrees:

(a) that none of the aforesaid activities shall be deemed nuisances or noxious or offensive activities under any applicable covenants or at law generally;

(b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is trespass or otherwise), any property within or in proximity to any portion of the Residential Community where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours);

(c) that the Founder, any Founder Affiliate, and all of their agents, contractors, subcontractors, licensees, Resort, the Foundation, each of their respective officers and directors, and other designees, successors, and assignees, shall not be liable for, and shall be held harmless for, any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; and

(d) that any purchase or use of any portion of the Residential Community has been and will be made with full knowledge of the foregoing.

15.3. Health, Safety, and Welfare

No provision of the Charter, the By-Laws, or the Articles of Incorporation shall be interpreted as a representation or duty of the Founder, any Founder Affiliate, Resort, the Foundation, Callaway Gardens Golf Resort, LLC, or the Association to provide for, protect or further the Owner's health, safety, and welfare.

15.4. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Residential Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Residential Community designed to enhance the level of safety or security that each Person provides for himself and his property. The Association, the Founder, or any Founder Affiliate shall not, in any way, be considered insurers or guarantors of safety or security within the Residential Community, and they shall not be held liable for any loss or damage by reason of failure to provide adequate security or the ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to any portion of the Residential Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, the Board, Association committees, the Community Council, Resort, the Foundation, Callaway Gardens Golf Resort, LLC, and the Founder and Founder Affiliates are not insurers or guarantors of security or safety and that each Person within the Residential Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

15.5. Limitation of Liability – Use of Recreational Facilities

The use and enjoyment of any recreational facility involves risk of personal injury or damage to property. Each Owner acknowledges and understands, and covenants to inform its tenants and all occupants of its Unit that all such Persons assume all risks of personal injury and loss or damage to property resulting from the use and enjoyment of any recreational facility the Association operates or maintains. Each Owner agrees that the Association, the Board, Association committees, the Community Council, Resort, the Foundation, and the Founder and Founder Affiliates, and their respective officers and directors, shall not be liable to any Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the use of any recreational facility, including, without limitation, any claim arising in whole or in part from the negligence of such Persons.

The Founder or the Association may, but shall not be obligated to, implement or maintain certain safety measures designed to decrease the chance of injury resulting from use of any recreational facility; provided, the Association, the Founder, shall in any way be considered insurers or guarantors of the safety of any Person using such facilities. In addition, the Association, the Founder, any Founder Affiliate, Resort, and/or the Foundation shall not be held liable for any loss or damage by reason of failure to provide adequate safety measures or ineffectiveness of safety measures undertaken. No representation or warranty is made that

any safety measures undertaken will be undertaken, or if undertaken, will be effective, nor that any such measures will in all cases prevent any personal injury or loss or damage to property that the measure is designed or intended to prevent.

15.6. Changes in the Master Plan

Each Owner acknowledges that the Residential Community is a master planned community and that the development of the Residential Community and the Callaway Resort is likely to extend over many years. As such, each Owner agrees that the Association shall not engage in, or use Association funds to support, any protest, challenge, or other form of objection to (a) changes in uses or density of property within the Residential Community or the Callaway Resort or (b) changes in the Master Plan without the Founder's prior written consent.

Each Owner acknowledges and agrees that the present plans and themes for the Residential Community's development may change and that he or she has not relied upon any representation, warranty, or assurance made by any Person (a) that any Units, or other property or facilities will be added, modified, or eliminated within the Residential Community; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that he or she is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to the number, types, sizes, prices, or designs of any residential or non-residential structures or improvements built or to be built within or adjacent to the Residential Community.

15.7. Notice and Disclaimer as to Community Systems

Each Owner acknowledges that interruptions in cable television and other Community Systems

and services may occur from time to time. The Founder, any Founder Affiliate, Resort, the Foundation, the Association, and their respective successors or assigns shall not be liable for, and no Community System or service user shall be entitled to refund, rebate, discount, or offset in applicable fees for any interruption in Community Systems and services, regardless of whether such interruption is caused by reasons within the service provider's control.

15.8. Areas Open to the Public

Pedestrian and bicycle trails, paths, and other areas within the Residential Community may be open for public use and enjoyment. Such areas may include, without limitation: greenbelts, parks, other areas conducive to gathering and interaction, roads, sidewalks, and medians. During the Development and Sale Period, the Founder may designate such areas as open to the public. Thereafter, the Board is authorized to make such designations.

15.9. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across the Units, any golf course or green space, any portion of the Callaway Resort, or any other property will be preserved without impairment. The Association shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise may be required under a separate covenant or agreement. The Founder, Builders, the Association, Resort, the Foundation Owners (with respect to their Units), and Callaway Gardens Golf Resort, LLC, or any other owner of any golf course have the right to add trees and other landscaping to their respective properties from time to time, subject to approval in accordance with this Charter (if required) and applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

15.10. Resort-Related Activities

NOTES

Each Owner, by acceptance of a deed to a Unit, acknowledges that Callaway Resort shall include various public attractions and resort-related activities and that events such as festivals and similar resort-related events may be held within Callaway Resort. Each Owner acknowledges that such events and activities may result in nuisances or hazards to persons and property on or in the vicinity of such events and activities.

Each Owner covenants, on behalf of itself, its heirs, successors, and successors-in-title, that it shall assume all risks associated with its use and ownership of property in the Residential Community, including but not limited to, the risk of property damage or personal injury arising from or incidental to such resort-related activities.

Each Owner shall indemnify and hold harmless the Founder, Founder Affiliates, Resort, the Foundation, Callaway Gardens Golf Resort, LLC, and the Association and their respective officers and directors, in their capacities as such, from any liability to persons using the Owner's Unit for claims, damages, or expenses, including attorneys fees, arising from or incidental to such resort-related activities.

Yesterday is not ours to recover, but tomorrow is ours to win or lose. Lyndon B. Johnson

Chapter 16

Rights of Lenders

In order to enhance each Owner's ability to obtain financing for the purchase of his or her Unit, this chapter sets forth various provisions for the benefit of lenders who make mortgage loans and for the benefit of those agencies that guarantee and insure mortgage loans made by institutional lenders.

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Residential Community. The provisions of this chapter apply to both this Charter and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action

An institutional holder, insurer, or guarantor of a first Mortgage that provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Residential Community or that affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant that is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action that would require the consent of a specified percentage of Eligible Holders.

16.2. Special FHLMC Provision

If a condominium has been established in the Residential Community, then so long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Voting Delegates representing at least 67% of the total votes in the Association consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area that the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Residential Community regarding assessments for Service Areas or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Charter);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance, or maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, rules and

regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Charter; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

16.3. Other Provisions for First Lien Holders

To the extent not inconsistent with Georgia law, if a condominium has been established in the Residential Community, then:

(a) Any restoration or repair of the Residential Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Charter and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated, in addition to the approval required by Sections 21.1 and 9.4, respectively.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(c) Any election to terminate the Association under other circumstances shall require (i) the consent of Voting Delegates representing at least 67% of the total votes in the Association and of the Founder, so long as it owns any land subject to this Charter, and (ii) the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage are allocated.

16.4. Amendments to Documents

If a condominium has been established in the Residential Community, then the consent of Voting Delegates representing at least 67% of the total votes in the Association and of the Founder, so long as it owns any land subject to this Charter, and the approval of Eligible Holders of first Mortgages on more than 50% of the Units subject to a Mortgage, shall be required materially to amend any provisions of the Charter, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

(a) voting;

(b) assessments, assessment liens, or subordination of such liens;

(c) reserves for maintenance, repair, and replacement of the Common Area;

(d) insurance or fidelity bonds;

(e) rights to use the Common Area;

(f) responsibility for maintenance and repair of property in the Residential Community;

(g) expansion or contraction of the Residential Community or the addition, annexation, or withdrawal of property to or from the Association's jurisdiction, except by the Founder as otherwise provided in Chapter 17;

(h) boundaries of any Unit;

- (i) leasing of Units;
- (j) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (k) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (l) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

16.5. No Priority

No provision of this Charter or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.6. Notice to Association

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

16.7. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

16.8. Construction of Chapter 16

Nothing contained in this chapter shall be construed to reduce the percentage vote that must otherwise be obtained under this Charter, the By-Laws, or Georgia law for any of the acts set out in this chapter.

Money is the barometer of a society's virtue.
Ayn Rand

NOTES

PART FIVE: COMMUNITY DEVELOPMENT

The rung of a ladder was never meant to rest upon, but only to hold a man's foot long enough to enable him to put the other somewhat higher.

Thomas Henry Huxley

Chapter 17

Expansion of the Residential Community

Due to the need to pace development to the needs of the Residential Community and the market demand for Units or Common Areas, the Residential Community may be developed in phases. The Founder or the Association may expand the initial property submitted to the Charter as set forth in this chapter.

17.1. Expansion by Founder

From time to time, the Founder may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder.

The Founder's right to expand the Residential Community under this section expires when all property described in Exhibit "B" has been submitted to this Charter or 35 years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever.

17.2. Expansion by the Association

The Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement that the Association records must be approved by Voting Delegates representing more than 50% of the total votes in the Association at a

meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Founder's consent is required. Following the termination of the Development and Sale Period, the Community Council's consent is required. The Association's President and Secretary, the owner of the property, and the Founder, if the Founder's consent is required, shall sign the Supplement.

17.3. Additional Covenants and Easements

Any Supplement that the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement in order to reflect the different character and intended use of such property.

17.4. Effect of Filing a Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

Any additional property submitted to this Charter shall also be subject to the Community Covenant, regardless of whether specifically stated in the Supplement submitting such property.

NOTES

Chapter 18

Additional Rights Reserved to the Founder

This chapter reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Residential Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.

18.1. Withdrawal of Property

During the Development and Sale Period, the Founder may amend this Charter to remove any unimproved portion of the Residential Community from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

18.2. Marketing and Sales Activities

Notwithstanding anything in the Governance Documents to the contrary, during the Development and Sale Period the Founder and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays.

18.3. Right to Make Improvements, Replat

During the Development and Sale Period, the Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

In addition, during the Development and Sale Period, the Founder may replat property that it owns and convert Units it owns into Common Area.

18.4. Right to Approve Changes in the Residential Community Standards

During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Founder.

18.5. Additional Covenants and Restrictions

During the Development and Sale Period, no one other than the Founder may record any additional covenants or restrictions affecting any portion of the Residential Community without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

18.6. Exclusive Rights to Use Name "Callaway"


No Person shall use the name "Callaway" or any derivative of such name or in any logo or depiction associated with Callaway Gardens or the Callaway Resort in any printed or promotional material without Resort's prior written consent. However, the Founder and other Owners may use the name "Callaway" in printed or promotional matter where such term is used solely to specify that particular property is located within Residential Community, and the Association shall be entitled to use the word "Callaway" in its name.

18.7. Community Systems

The Founder reserves for itself, Founder Affiliates, and their respective successors and assigns, a perpetual right and easement over all property in the Residential Community to install and operate such Community Systems as the Founder, in its discretion, deems appropriate to serve any portion of the Residential Community. Such right shall include, without limitation, the Founder's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the region. The Founder also has the right to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available.

18.8. Easement to Inspect and Right to Correct

 The Founder, or someone it designates, may enter onto any Unit to inspect and correct problems with the Unit. The Founder must give the Owner of the Unit prior notice, and if entering an enclosed structure on the Unit, obtain the Owner's prior consent unless it is an emergency.

The Founder reserves for itself and others it may designate the right, *but not the obligation*, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any portion of the property within the Residential Community, including Units, and a perpetual nonexclusive easement of access throughout the Residential Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

18.9. Right to Notice of Design or Construction Claims

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Residential Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

18.10. Right to Transfer or Assign the Founder's Rights

Any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation nor enlarge a right beyond that which Founder has under this Charter or the By-Laws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Founder's consent to such exercise.

Notwithstanding the above, any transfer or delegation of the Founder's rights and obligations under this Charter or By-Laws shall be subject to Resort's approval, which approval shall not unreasonably be withheld, conditioned, or delayed.

18.11. Termination of Rights

The rights contained in this chapter shall not terminate until the earlier of (a) termination of the Development and Sale Period; or (b) the Founder's recording of a written statement that all sales activity has ceased. Notwithstanding the termination of rights, the protections afforded Resort in Section 18.6 shall be for perpetual duration or until such time as Resort terminates its rights in such regard.

The very essence of leadership is that you have to have a vision. Theodore Hesburgh

NOTES

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

There are many ways of going forward, but only one way of standing still.

Franklin D. Roosevelt

Chapter 19

Dispute Resolution and Limitation on Litigation

From time to time, disputes may arise between Owners or between an Owner and the Association, the Founder, or others involved in the Residential Community. This chapter commits the parties to any such dispute to work together in an attempt to resolve the dispute without litigation, in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Residential Community.

19.1. Agreement to Encourage Resolution of Disputes Without Litigation

(a) **Bound Parties.** The Founder; the Association and its officers, directors, and committee members; all Persons subject to this Charter; and any Person not otherwise subject to this Charter who agrees to submit to this chapter (collectively, "**Bound Parties**") agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Residential Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b) unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 19.2 in a good faith effort to resolve such Claim.

(b) **Claims.** As used in this chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of Improvements within the Residential Community, other than matters of aesthetic judgment under Chapter 5, which shall not be subject to review and shall not be subject to this chapter.

(c) The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Founder or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 19.2; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 19.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this chapter.

19.2. Dispute Resolution Procedures

(a) *Notice.* The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

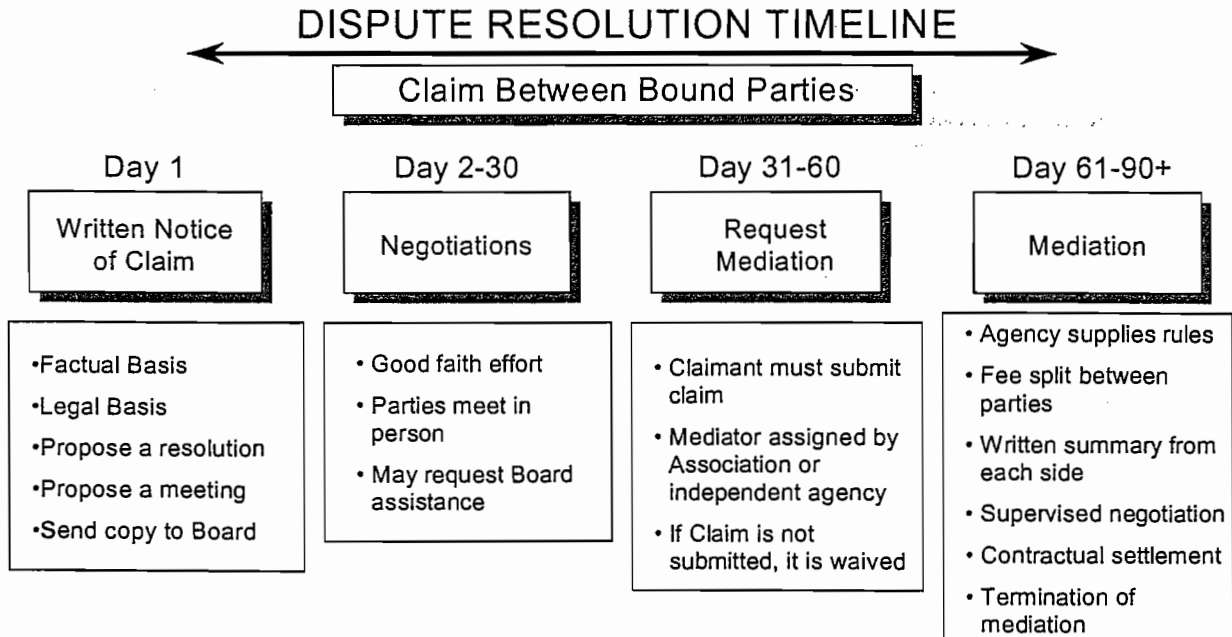
(b) *Negotiation.* The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representa-

tive to assist the parties in negotiating a resolution of the Claim.

(c) *Mediation.* If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Harris County or metropolitan Atlanta area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of



termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall pay an equal share of the mediator's fees.

(d) *Settlement.* Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

19.3. **Initiation of Litigation by Association**

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Delegates entitled to cast 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

(a) initiated during the Founder Control Period;

(b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings;

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Problems cannot be solved at the same level of awareness that created them. Albert Einstein

NOTES

Chapter 20

Changes in the Common Area.

Various influences and circumstances within and outside the Residential Community may give rise to a need or desire to make changes in the ownership of or rights to use Common Area. This chapter explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.

20.1. Assignment and Reassignment of Limited Common Area

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Voting Delegates representing a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Founder's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

20.2. Condemnation



A governmental entity such as a town, county, or state has the power to condemn property for its own uses but generally has to pay the value of the property to do so.

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Associa-

tion in lieu of and under threat of condemnation with such approval as may be required under Section 20.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Voting Delegates representing at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 20.4.

20.3. Partition



Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 20.4.

20.4. Transfer or Dedication of Common Area

During the Development and Sale Period, without a vote of the membership (a) the Founder may dedicate roadways within the Residential Community to Harris County, the City of Pine Mountain, or to the State of Georgia, as applicable, and (b) upon the Founder's request, the Association shall dedicate roadways to Harris County, the City of Pine Mountain, or the State of Georgia, as applicable. Any dedication pursuant to this paragraph shall also require Resort's approval.

In addition, the Association, with Resort's consent, may dedicate portions of the Common Area to Harris County, the City of Pine Mountain, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of Voting Delegates representing at least 75% of the total votes in the Association, and the Founder during the Development and Sale Period; or

(b) if Limited Common Area, upon written approval of Owners of at least 75% of the Units to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

Anyone who has never made a mistake has never tried anything new. Albert Einstein

NOTES

Chapter 21

Termination and Amendment of Community Charter

As the Residential Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan as well as to changes in the needs and desires of the Residential Community that inevitably will occur. This chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.

21.1. Term and Termination

Unless terminated by the Owners as provided below, this Charter is intended to have perpetual duration. However, so long as Georgia law limits the period during which covenants may run with the land, any provision of this Charter affected by such law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of 20 years, unless terminated in accordance with O.C.G.A. §44-5-60, as it may be amended, within two years preceding any extension.

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 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.



There is an old concept of law known as the "Rule Against Perpetuities" that restricts how long covenants can affect the title to land. Many jurisdictions no longer observe such rule; however, where the rule applies, the term of the covenants cannot exceed 21 years after the death of a named person who is living at the time the covenants are recorded.

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

21.2. Amendment

(a) *By Founder.* In addition to specific amendment rights granted elsewhere in this Charter, until termination of the Founder Control Period, the Founder may unilaterally amend this Charter for any purpose. The Founder's right to amend during the Founder Control Period shall include, without limitation (i) the right to eliminate representational voting within the Residential Community and to delete all related provisions contained in the Governing Documents (*e.g.*, provisions relating to the election and use of Voting Delegates, the creation of Election Districts, and the creation of Neighborhoods), and/or (ii) the right to eliminate Service Areas within the Residential Community and to delete all related provisions in the Governing Documents if the Founder determines, in its discretion, that the size and structure of the Community, as developed, does not justify or warrant such provisions.

Thereafter, the Founder may unilaterally amend this Charter if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency.

However, any amendment under this paragraph shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, during the Development and Sale Period, the Founder may unilaterally amend this Charter for any other purpose provided the amendment has no material adverse effect upon the substantive rights of more than 2% of the Owners.

(b) *By Owners.* Except as otherwise specifically provided above and elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 75% of the total votes in the Association, including 75% of the total votes held by Owners other than the Founder. In addition, during the Development and Sale Period, any such amendment shall also require the Founder's written consent.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) *Validity and Effective Date.* No amendment may remove, revoke, or modify any right or privilege of the Founder or Resort without the written consent of the Founder or Resort, respectively (or the assignee of such right or privilege). Additionally, no amendment may remove, revoke, increase, decrease, or modify any Community Council right or privilege without the Community Council's written consent.

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

(d) *Exhibits.* Exhibits "A" and "B" are incorporated by this reference, and this chapter shall govern amendment of those exhibits. Exhibit "C" is incorporated by this reference and may be amended in accordance with Chapter 7 or pursuant to this section. All other exhibits are attached for informational purposes and may be amended as provided in those exhibits or in the provisions of this Charter that refer to such exhibits.

*Don't ever take a fence down until you know
why it was put up. Robert Frost*

NOTES

THIS COMMUNITY CHARTER is made by Cousins Real Estate Corporation, a Georgia corporation, as the Founder, and in witness thereof, it has executed this Charter this 3RD day of DECEMBER, 2003.

FOUNDER:

COUSINS REAL ESTATE CORPORATION,
a Georgia corporation

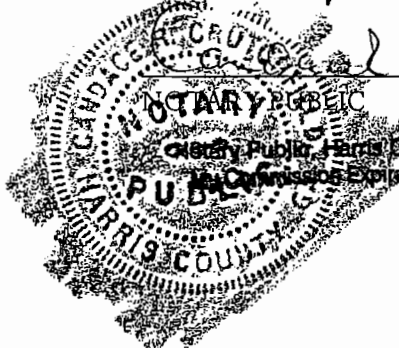
By: *[Signature]*
Name: ERIK WILK D. SUTER
Its: SENIOR VICE PRESIDENT

Signed, sealed, and delivered this 3 day
of December, 2003
in the presence of:

[Signature]
WITNESS

[Signature]

Notary Public,
Harris County, Georgia
Commission Expires May 19, 2004



Owner Consent

The undersigned, as the owner of a portion of the property described in Exhibit "A" to the within and foregoing Community Charter for Callaway Residential Properties, hereby consents to and approves the Charter as applied to such property.

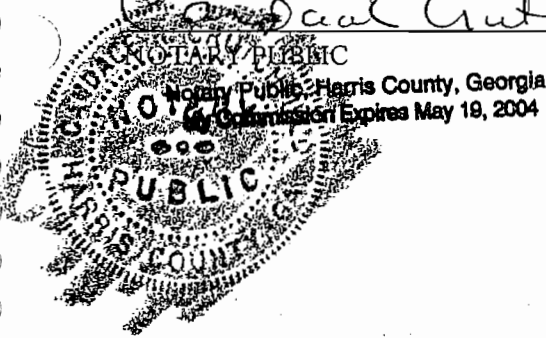
PINE MOUNTAIN BUILDERS, LLC,
a Georgia limited liability company

By: *Mike Guinan*
Name: Mike Guinan
Its: Manager

Signed, sealed, and delivered this 3 day
of December, 2003
in the presence of:

Jaris Newman
WITNESS

Carroll Antelgard



Consent of Callaway Gardens Resort, Inc.

Callaway Gardens Resort, Inc., hereby consents to and approves the within and foregoing Community Charter for Callaway Residential Properties.

CALLAWAY GARDENS RESORT, INC.,
a Georgia corporation

By: Edward C. Callaway
Name: Edward C. Callaway
Its: CHAIRMAN & CEO

Signed, sealed, and delivered this 2 day
of December, 2003
in the presence of:

[Signature]
WITNESS

Nathaniel M. Hanley
NOTARY PUBLIC

My Commission expires 2/26/06



Consent of Ida Cason Callaway Foundation

The Ida Cason Callaway Foundation, hereby consents to and approves the within and foregoing Community Charter for Callaway Residential Properties.

IDA CASON CALLAWAY FOUNDATION, a Georgia non-profit corporation

By: Edward C. Callaway
Name: Edward C. Callaway
Its: Chairman & CEO

Signed, sealed, and delivered this 02 day of December, 2013, in the presence of:

Lycie W. Pope

WITNESS

Katherine M. Hartley
NOTARY PUBLIC

My Commission expires 2/26/06

19167 Callaway, Longleaf/Callaway Residential/111103/dah



EXHIBIT "A"

Land Initially Submitted

ALL THAT CERTAIN TRACT AND PARCEL OF LAND lying and being in Land Lot 42, 3rd District, Harris County, Georgia, containing 40.81 acres and including, without limitation, Lots 1-54 (inclusive) and Lots 87-94 (inclusive), as more particularly described in that certain Final Plat for Longleaf at Callaway, Phase 1, prepared by Gaskins Surveying & Engineering Company, dated August 18, 2003, and recorded October 9, 2003 in Plat Book 27, Page 240 in the Office of the Clerk of Superior Court of Harris County, Georgia.

EXHIBIT "B"

Land Subject to Annexation

Any real property lying and being within, or within a 10-mile radius extending from the boundaries of, that certain destination resort located in Harris County, Georgia, commonly known as Callaway Gardens Resort, which is owned in whole or in part by Callaway Gardens Resort, Inc. and the Ida Cason Callaway Foundation.

Note to clerk and title examiners:

This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Chapter 17.

EXHIBIT "C"
Initial Rules

The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance. In fact, it is expressly intended that the Reviewer under Chapter 5, and the Board, as appropriate, have discretion to approve or disapprove actions or items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. Exercising discretion in approvals or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any circumstances it deems appropriate.

The following shall apply to all of the Residential Community until such time as they are modified pursuant to the Charter.

1. **General.** The Residential Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for the Founder or the Association) consistent with this Charter and any Supplement.

2. **Prohibited or Restricted Activities.** The following activities are prohibited within the Residential Community, except as the Board or the Reviewer may expressly authorize as permitted below:

(a) Parking commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages or such other areas as the Board may specifically designate; provided, construction, service, and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area. Parking vehicles other than those described above on streets within the Residential Community is permitted unless prohibited by a Supplement, subject to the Board's ability to promulgate reasonable parking rules and regulations, including rules limiting parking to one side of a street only;

(b) Raising, breeding, or keeping animals except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets that are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity that emits foul or obnoxious odors outside the Unit or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity that, in the reasonable determination of the Board, tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(k) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(l) On-site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Chapter 5;

(m) Any activities that materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Residential Community; that use excessive amounts of water; or that result in unreasonable levels of sound or light pollution;

(n) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Chapter 5; and

(o) Any modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Chapter 5 of the Charter. This shall include, without limitation, signs, basketball hoops, and swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; hedges, walls, dog runs, animal pens, or fences of any kind; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement;
or

(iii) an antenna that is designed to receive television broadcast signals

shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. The Founder and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other Communication System for the benefit of all or a portion of the Residential Community should any master system or systems be utilized by the Association and require such exterior apparatus.

3. **Prohibited Conditions, Structures, Improvements, and Activities.** The following shall be prohibited at the Residential Community:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Residential Community;

(b) Structures, equipment, or other items on the exterior portions of a Unit that have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Sprinklers or irrigation systems or wells of any type that draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Callaway Resort, except that the Founder or the Association shall have such right with Resort's consent; and

(d) The use of any golf cart not registered or licensed in the manner required for use within the Callaway Resort. In addition, the Board may promulgate rules relating to the use of golf carts within the Residential Community.

EXHIBIT "D"

By-Laws of Callaway Residential Owners Association, Inc.

