

Draft- 8/8/18  
ALB

# F-BHA COMMON AREA POLICY

## **Introduction**

The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association (herein “Association” or “BHA”) recorded in December 2017 (“the Covenants”) state in Article 8.1:

8.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, will manage and control the Common Area and all improvements thereon (including, but not limited to, private roads, rights of way, furnishings, equipment, walkways, gazebos, master walkway, and common landscaped areas); and will keep it in good, clean, attractive, and sanitary condition, order and repair, consistent with this Declaration and the Community-wide Standard.

### **I. Purpose.**

The purpose of this document is to provide a statement of policy for the management and control of the Common Area.

## **II. Definitions.**

**Common Area** is defined in the Covenants in Article 1.8 as “all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes. A map of the Common Area is available for viewing in the Association office.”

**Limited Common Area** is defined in the Covenants in Article 1.15 as “those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking, buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only the Owners of Units served thereby. Service Areas, as defined herein, are included within the term Limited Common Area.”

Limited Common Areas are those serving a specific neighborhood or complex. Examples of Limited Common Areas include Ibis Roost, Timbercreek, Royal James, Palmetto Cove, Surfman’s Walk, Sumner’s Crescent and Keeper’s Landing. Their ownership, maintenance and use are restricted to owners of properties within the pertinent neighborhood or complex. Currently, all properties of this type are either privately owned by multi-family residences or are within the Common Area located within the property described in EXHIBIT B of the Covenants which are reserved for the exclusive use of one or more, but fewer than all, of the Owners.

**Maintenance:** The covenants specify that “maintenance” means keeping homes and lots in a “clean, neat, sightly and attractive” condition. This includes maintenance of the Common Area.

### **III. Map of the Common Area.**

A current map of the Common Area may be viewed at the BHA Association Center.

### **IV. Classification.**

There are three (3) classes of Common Area.

1. Fairway – those tracts adjoining the golf course property.
2. Forest – those tracts located in the forest of Bald Head Island that do not adjoin the golf course.
3. Dune/Beach – those tracts that are located outside of the forested area and that do not adjoin the golf course, including waterfront properties.

### **V. Use.**

Within each Common Area class, there are four (4) potential uses.

1. Natural – left essentially in a natural state.
2. Landscaped – subject to some type of maintenance effort.
3. Utilized – altered for member benefit, e.g., Dog Park, Boat Park, Garden Area, Association Center.

4. Easements – granted where specific use or uses of Common Area are allowed for a specific purpose or purposes, e.g., utility easements, golf course easement, beach access.

Common Area administrative practices should provide that the evaluation of a proposed change in use of any segment of Common Area should include, if reasonably possible, input from members whose property location would cause them to be most directly affected by the change, e.g., a proposed cart or boat parking area adjoining their residential lot.

## **VI. Uses for All Common Area Classes.**

1. All Common Area is owned by the BHA.
2. Each property owner has a non-exclusive easement of use, access and enjoyment in and to the Common Area.
3. Every property owner is prohibited from removing or altering existing trees, tree limbs, vegetation and clustered growth and is prohibited from adding to the existing trees, tree limbs, vegetation and clustered growth of any kind or size on the Common Area without prior permission of the BHA Board.
4. The Association will maintain the Common Area.
5. Recreational use of the Common Area cannot violate other ordinances and laws, including those that protect the environment, such as walking on the dunes.
6. Property owners whose property adjoins the Common Area may not have structures that encroach on the Common Area, (i.e., setbacks must be followed). Exception: The Association has a specific policy pertaining to the construction of beach accesses for

properties located on the beachfront. (See this Section IX, Dune/Beach.)

7. The Common Area is subject to easements for utility installation and cross-drainage as provided in the Covenants in Article 12.1 and 12.2.
8. The Association Center, the Surfman's Walk Gazebo, the Boat Park and the Community Garden can be rented consistent with existing Board Policies or policies later amended or adopted by the BHA Board.

## **VII. Fairway: Use and Requirements for the Fairway Common Area.**

1. Natural. Fairway Common Area adjoined by and located between platted lots and the golf course must be left in its natural state unless permission is obtained from the BHA Board or its designated committee.

2. Landscaping:

- a. A property owner whose property adjoins fairway Common Area can apply for permission to clear Common Area to achieve a golf course view by submitting in writing a proposed plan of clearing for consideration by the BHA Board or its designated committee. In order for the proposal to be approved, the property must fit the definition of a Fairway lot, noted under the Landscaping section of the Design Guidelines. No wholesale clearing of common area for a fairway view is allowed; rather, any proposed clearing must be done in a naturalized manner consistent with the standards set forth in the Covenants and the Guidelines, and the Village of BHI Zoning ordinance. Proposed plans must include a site plan indicating which trees/vegetation would be trimmed or removed; mitigation for removal of any trees; and, details regarding appropriate mulching and future care (i.e., watering). Please

review the Landscape Section of the Design Guidelines for further guidance. New plantings are restricted to native plants. Use of herbicides/pesticides is prohibited without permission. The BHA Board has the discretion to decide whether or not to approve the proposal.

b. If the proposal is approved by the Board, the BHA shall proceed with the clearing with a contractor hired and controlled by the BHA. The BHA shall pay the contractor and bill and collect the amount paid the contractor from the property owner(s) whose property adjoins the Common Area and who submitted the proposal.

c. Requirements of a and b apply only to property that fits the definition of a fairway lot, identified in the Introduction regarding Common Area section of the Design Guidelines.

3. Utilization: See “Easements” (#4 below).

The Association may construct on Forest Common and Limited Common Areas such facilities as it determines are appropriate for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.

4. Easements: The Covenants address this item in Article 12.10 which states:

(12.10) Golf Course Restrictions for Fairway Units. The following special restrictions will apply to all Units abutting, adjoining or lying contiguous to the golf course:

(a) Owners of such Units will not engage in any activities which would detract from the playing qualities of the Bald Head Island Golf Course or from the Properties and its attractive overall landscaping plan for the entire golf course area.

(b) The owner of the golf course (“Golf Course Owner”) is hereby granted an assignable “golf course

maintenance easement area” of thirty (30) feet from the boundary between the Units and the golf course for the purpose of landscaping, planting of grass, watering the golf area, application of fertilizer to the golf area as needed, and otherwise mowing and maintaining the easement area. This easement privilege will include the removal of underbrush, trees less than three inches in diameter (outside bark to outside bark) when measured four feet along the tree trunk, clustered growth measuring less than two square feet, stumps, trash and debris that would or could be in conflict with the plans and specifications of the golf course area as determined by the Golf Course Owner.

(c) Golf Course Owner is hereby granted for itself, its successors or assigns an easement to permit and authorize registered golf course players and their caddies to enter upon the golf course easement maintenance area to recover a ball or play a ball. This easement is subject to the official regulations of the course, and such entering and playing will not be deemed a trespass. Registered golf players or their caddies will not be privileged to enter the golf course maintenance easement area on any Unit with a golf cart or other vehicle. Golf Course Owner, its successors or assigns agree to place and maintain “out of bounds” markers on said lots at the expense of the Golf Course Owner, its successors and assigns.

5. Any conflict between the BHI Club and a property owner over common area clearing or maintenance will be resolved by the BHA Board.

## **VIII. Forest: Use and requirements for the use of Forest Common and Limited Common Area.**

1. Natural: Forest Common and Limited Common Areas shall be left essentially in a natural state except for segments which the

Association determines should be “improved” and utilized for the common use and enjoyment of the membership (see “Landscaping” and “Utilization” below).

2. Landscaping:

a. The Association may designate segments of Forest Common and Limited Common Area to be landscaped.

b. Landscaping of Forest Common and Limited Common Area for personal/individual use is not allowed.

3. Utilization: The Association may construct on Forest Common and Limited Common Area such facilities as it determines are appropriate for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.

4. Easements: Only as noted in this Section VI. “All Common Area Classes.”

IX. Dune/Beach: Use and requirements for the use of Dune/Beach Common Area.

1. Natural: Dune/Beach Common Area shall be left essentially in a natural state except for segments which the Association determines should be “improved” and utilized for the common use and enjoyment of the membership (see “Landscaping” and “Utilization” below).

2. Landscaping:

a. Stabilization Structures and Plantings: Beach front property owners may submit planting proposals which will be reviewed



by the Resource Conservation and Beautification committee and approved by the BHA.

- b. Clearing for view is not allowed on the island except in the controlled area of clearing for Fairway lots or otherwise with approval of the BHA Board.
  - c. BHA approval is required prior to any clearing on Common Area.
  - d. In the interest of dune stabilization, the Association may, after evaluation, give permission to the Village of Bald Head Island for implementation of structures and plantings on Common Area on the waterfront.
3. Utilization: The Association may construct on Dune/Beach Common Area such facilities as it determines are required for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.

a. Beach accesses are considered for waterfront homes only. Waterfront homes are defined as properties from which a straight line may be drawn at a 90-degree angle from the middle point of the water-facing elevation to the water's edge without crossing any portion of any adjoining lot.

b. Structural Requirements for Beach Accesses:

1) Private Beach Accesses constructed after 01-01-2002 must adhere to the concept of "shared accesses for adjacent lots where possible." If it is possible to join to an adjacent access, a separate access for individual lots will no longer be permitted.

2) The access will be constructed of pressure treated wood, 48 inches in width and at least 18 inches, but no more than 24 inches

above grade. Railings or other constructs above or below the beach walk will not be allowed. Specifically, pavilions and permanent seating will not be allowed. The Beach walk will be raised on pilings sunk at least three, but no more than five feet in depth, so that only the pilings touch the dunes. Steps should be used only when necessary, rather the walkway should follow the grade of the dunes as much as possible. Accesses will not follow a straight course but will angle to follow the contour of the dune ridges. Sand walkways will not be permitted.

3) Private accesses will extend from an ocean facing deck and terminate on the ocean side of the frontal dune. The person constructing the access will replace all disruptions of dune plantings immediately. In no case should an access way be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion. If an existing access way should diminish the dune's capacity as a protective barrier against flooding and erosion, it will be corrected, closed or removed immediately.

## **X. AMENDMENTS TO POLICY**

This policy may be amended as needed by a 2/3 vote of the BHA Board of Directors.

## **XI. COMMON AREA ADMINISTRATION COMMITTEE**

Administration of Common Area Policy will be the responsibility of the Board or its designated committee. Depending on the frequency of issues to be resolved with respect to Common Areas, the Board may at any time decide to establish a standing committee specifically to administer this policy. BHA's Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of members present in person or by proxy, subject to the quorum requirement.

## **XII. LIMITATIONS OF POLICY**

In all decisions regarding Common Area, the Board will maintain compliance with Covenant restrictions, Village ordinances and other government code requirements.

The Common Area policy, as with all BHA policies, is not intended to conflict with the Covenants. If a conflict exists, the Covenants prevail.

\*\* Note – for more details on the application of this policy, please ask the Coordinator for a copy of the Common Area Practices and Procedures document.