

## **ARCHITECTURAL AND COVENANT COMMITTEE**

### **ESTABLISHMENT**

In accordance with the assignment of covenant compliance rights and responsibilities by Weyerhaeuser Real Estate Company (WRECO) to the Greenbrier Property Owners Association (GPOA), as stated in WRECO's document of conveyance dated June 30, 1995, the GPOA Board of Directors (the Board) establishes a committee to be named the Architectural and Covenant Committee (the ACC Committee) to help carry out its assumed duties, obligations, and policies related to all approved private property restrictions as long as the covenants remain in effect.

This Committee will assist the Board in all plan approvals, pre-construction reviews and inspections, and violator proceedings as part of the GPOA's purpose to preserve the character, amenities, and property values of the community. Recognizing the differences in operational approach between WRECO and the GPOA, the Committee has been organized to conduct its operations with community-wide participation and has formulated changes in procedures to make its operations manageable and effective in that context. All policies and practices shall conform to the framework of the existing covenants.

To discharge its responsibilities promptly, efficiently, and consistently, the Committee has been empowered by the Board to conduct hearings, inspections, reviews, and neighborhood notifications on building or violation activity as needed. The Committee's determination on plans reviews, professional consultations, and variances shall be recommended to the Board for formal approval, authorization of expenditures on cases under consideration, and for action on appeals.

To maintain continuity and access for prompt response to applicants and residents, the Committee shall be appointed by the Board to comprise each designated section of the subdivision (I through VI) and each individual owner association that wishes to participate. Any resident of Greenbrier who is a member in good standing of the GPOA is eligible for appointment. Each member shall be appointed for a one-year term, all to be eligible for re-appointment. The Board shall also appoint a Chairman, Vice Chairman and Recorder, on an annual basis, which may be reappointed.

The following sections on Overview, Operations, Violation Handling, and Variances represent the Board's approved approach to a fair and earnest administration of the covenants. Each section details items pertaining to those headings more fully.

### **OVERVIEW**

The duties of the Committee center on covenant compliance, rules education, plan approvals, on-site inspections, and other building and site matters to protect the quality of living standards, appearance, and character of Greenbrier.

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Revised: 02/1/07, page 3, 2<sup>nd</sup> paragraph, as to meeting date, time and location

## **ARCHITECTURAL AND COVENANT COMMITTEE (Cont'd)**

This umbrella Committee takes over the role of WRECO in ensuring the application of rules, regulations, policies, and practices related to covenant adherence by all owners of lots in areas assigned by WRECO and by all builders and contractors working on property in these areas. Members of the Committee may work on cases outside their particular sections (inspections, notifications, etc.) to add to the efficiency, unity, and neighborhood harmony of Committee operations.

The Committee's responsibilities are to: review plans prior to construction according to established procedures in a consistent and prompt manner; inspect site preparations before lot clearance; monitor construction and lot condition after plan and inspection approvals; and prevent or correct common interest problems arising from improper building or landscaping (drainage, tree cutting, intrusion on the privacy and view of neighbors, etc.) and from other external misuse factors, such as unauthorized equipment, parking, storage, and nuisance activities. The results of the Committee's meetings shall be conveyed to the Board the same week of the meeting for Board action as necessary

Since the covenants run with the lots, all residents of Greenbrier are legally bound to abide by them, whether members of the Association or not. Each designated section of Greenbrier has its own restrictions. Golf course and waterfront property have additional restrictions. The Committee has jurisdiction over all sections except those governed by individual neighborhood homeowners associations (HOA's).

The Committee is an agent of, appointed by, and reports to the Board. Committee membership may be comprised of representatives of each section of Greenbrier heretofore designated by Roman numerals I-VI by WRECO and each individual owner association that wishes to participate. As set forth in the covenants, this covers Sections I through VI, without regard to the alphabetized phases specified therein. The Committee will endeavor to have a membership composed of one representative per Section, with a majority of eligible members constituting a quorum, to conduct business. The Board will appoint a Chairman, Vice Chairman and Recorder annually. They will report at least monthly to the Board. The Committee may work with its counterparts in the neighborhood HOA's in Greenbrier, upon invitation or on common issues.

The Committee is authorized, at any time needed, to recommend to the Board variances in individual situations and additional requirements or clarifications to deal with changing conditions and technology. Such variances and interpretations of restrictions shall be approved and granted ~~only by the Board~~ and shall not replace, subvert, or contradict the spirit of the covenants of record.

The Committee shall maintain a library of all appropriate covenants and related rules, regulations, policies and practices in effect in the community. Included shall be the approved procedures for application, plan review, inspection, appeal, notification, complaint handling, and correction of violations. The Committee shall keep all available subdivision plat plans and individual building-plans, owner approvals, and owner violation records in files by lot number and street address in a readily accessible storage facility.

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All processes established to accomplish the duties of this Committee will involve and provide for: meeting to review and approve plans, hearings for complaints and appeals, rules and education material for owners and builders, mediation proceedings with owners and builders, notices and records of results and decisions, and documentation of legal action if necessary.

### **OPERATIONS**

The Architectural and Covenant Committee will normally meet on the first Tuesday of every month at The Emerald Golf Clubhouse, located at 5000 Clubhouse Drive, New Bern, North Carolina, 28562, from 7:00 to 8:00 p.m., or longer if necessary, for the purpose of reviewing plans for building, changing external appearance of property, adding structures or equipment to property, and/or landscaping effect on drainage, privacy, and screening (sight, sound, and sun). There will also be a separate agenda for hearing complaints on violators, reviews of violation cases, and requests for variances. These meetings will be open to all Greenbrier property owners, contractors, professional consultants, and legal counsel involved in matters before the Committee.

Review applications and hearing requests should be mailed to:

**Greenbrier Property Owners Association  
Attn: Architectural and Covenant Committee  
P.O. Box 13943  
New Bern, NC 28561**

By prior arrangement, special delivery may be made directly to the house of the ACC Chairperson (or designee) as long as receipt and appropriate sign-off are noted on the applications or requests. Phone contact with the Committee Chairperson, Vice Chairperson, or Recorder can be made to obtain forms and information.

**There shall be a \$50.00 charge for plan review for new home construction.** This will cover file and storage expenses, copying and-postage, and any professional service fees incurred by the Committee. These charges shall be published and included with any material sent to applicants.

Board procedure for Plan submissions shall be handled as follows:

1. Board representative (President or Treasurer or alternate) checks the P.O. Box five days a week.
2. Applications and plans received will be relayed the same day to the Committee Chairperson (or Vice Chairperson or designee), who records receipt of the application, activates the process of notifying the appropriate Committee representatives and delivers the applications, correspondence, plans, and supporting material needed for a review.

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3. On major construction requests, the Chairperson (Vice Chairperson or Designee) will notify the owner/builder of receipt of the request, including notice that lot clearing, site preparation, preliminary construction, exterior alteration, or any other related activity is not permitted until building plan approval is granted by the GOPA Board.

### Committee procedure for Plan submission:

1. Two (2) sets of forms and blueprints, as now specified in the covenants, are needed by the Committee. If not complete, the package will be returned to the applicant, and the applicant will assume responsibility for the delay.
2. The Committee Chairperson shall maintain an ACC PROJECT/CHANGE REQUEST LOG to include the applicant's name, date received, date of first inspection, date to GPOA, date of final inspection (if required), and type of application. A copy of this log shall be presented to the GPOA representative each month at the ACC meeting.
3. The Committee Chairperson shall give both sets of the application to the sectional representative who will select and lead the initial inspection team. A valid inspection shall involve a minimum of two (2) members with a minimum of three (3) members for major construction. On-site inspection procedures shall follow adopted pre-construction guidelines on proper tree flagging; building footprint staking, stringing or painting; property line marking; and consistent application of tree cutting policy, wetland restrictions, and natural buffer zone protections. The inspection team shall complete the application by adding any "conditions of approval" to the forms and signing them.
4. After the initial inspection is complete the sectional representative shall call the Committee Chairperson so he may log the initial inspection date. The Committee Chairperson, in a review with the sectional representative, shall determine whether this application is to be considered a routine/incidental application or if it requires the review of the ACC Committee.
  - Routine/incidental application - With a routine/incidental application one (1) complete copy shall be delivered to the GPOA representative for Board approval or initiation of follow-up action as required. The second copy shall be delivered to the ACC Recorder for proper filing.
  - ACC Application Review - If the application is determined to require a review by the Committee, the sectional representative will bring both copies to the next scheduled (or special) meeting and be prepared to present the package to the Committee. The representative will be asked for his/her recommendation and comments before the Committee acts. Upon completion of their review, the Committee's recommendation will be given to the GPOA representative along with one (1) copy of the application (plans, details, etc.) that he should return to the applicant (because the application may now contain "conditions of approval" added by the ACC). The sectional representative shall retain the second copy of the application until the project is complete and the final inspection is conducted to verify compliance with the approved application. After the final

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inspection is complete and the application is signed, the sectional representative shall call the Committee Chairperson so the final inspection date can be logged. The sectional representative shall then deliver the application to the Recorder for proper filing.

5. The owner, builder, and immediate neighbors may attend the meeting for Q&A purposes. The Committee recommends approval, approval with a variance, or disapproval, with the invitation to the applicant to resubmit with corrections or adjustments.

### **VIOLATION HANDLING**

The Committee prefers to use mediation to resolve proposed or existing covenant violations and disregard of rules or policies related to the covenants.

Representing the step between owner violations and possible legal action, the mediation process will be the Association's primary involvement and emphasis on a neighbor-to-neighbor basis. The Committee will play a key role in this process through investigation, contacts, notification, hearings- professional consultation, and/or violator assistance.

The first action is the reporting of the violation. Any neighbor can do this to a representative of the Committee or by the sectional representatives themselves. The appropriate sectional representatives will investigate by observation and ascertain whether a violation appears to exist or is in process. When the designated representatives are not available, other members of the Committee may handle the investigation to avoid delay. The plan review process will also provide the Committee the opportunity to determine violations and prevent them.

Upon confirmation of an existing violation or a violation in process, the Committee representative(s) will notify the Committee Chairperson immediately. The Committee representative will then have an informal conversation with the owner/builder involved about the situation and the necessity to correct the problem. Referral to the covenants, or policies and practices related thereto, as well as options available to the owner, shall be a part of this official but informal visit. In case of neighbor problems between the owner/builder involved and Committee Representative(s), Representative(s) from other sections may handle this stage of the process.

If a violator refuses to correct the violation or stop the violating action that is underway, the sectional representative will so inform the Committee Chairperson (or the designee acting in his or her place). The Chairperson will then call a meeting of the Committee (including the

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sectional representatives involved) to review the case and vote to recommend next-step action to the Board. The Committee's recommendations may include any of the following actions:

- Ask the Board to send a notification letter to the violator that would explain the violation, request compliance within a reasonable time period and/or to stop work immediately while the case is reviewed.
- Suggest alternatives.
- Recommend a variance for specific reasons; or
- Ask the Board to consider terminating the mediation process and go directly to legal action.

The Board would then follow up on the Committee's recommendations by special meeting unless the owner registers an appeal.

Whether work has been completed or recently halted, the violator within the mediation process can initiate an appeal to the Board. It provides an opportunity to raise questions about the Committee's findings, update the Board on new or alternative solutions, or request consideration of mitigating circumstances. A quorum of the Board will hear the appeal and reach a decision that may include changes from the Committee's recommendations. Whatever the result of the appeal, the violator will be directed to comply with terms and deadlines of the decision by the Board and offered friendly advice and assistance to gain voluntary compliance.

The assistance factor is a major part of the mediation process. It demonstrates the extra effort of neighborly concern, as well as a seriousness of purpose by the Association, whether or not the violator is a GPOA member. For example, if the violator needs help in removing non-complying objects or structures, unsightly debris, unapproved lot alterations affecting drainage, or other conditions that represent misuse of the property, the Committee may offer to provide extensions in time, recommend resources and trades people, or suggest alternatives to expedite the compliance. If the violator rejects this opportunity, the Committee shall inform the Board and the Board may decide to pursue legal action to undertake the necessary correction on its own behalf as quickly as possible.

When the mediation process is terminated by continued non-compliance, the Board shall authorize a "cease and desist" letter by certified mail from the Association's attorney. The letter shall state the non-compliance, cite Association's attempts to rectify the situation through the mediation process, and outline the appropriate punitive possibilities for the violator through legal action (court order for removal, work stopping injunction, lien attachment, blockage of sale of property, costs involved in the suit, etc.). If a proper response to cooperate is not received within five workdays, the Board shall authorize the Association's attorney to seek all available legal remedies to gain compliance.

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In case of violation by a builder of a new home, rather than an addition to or renovation of an existing house, attempts will be made to work with both builder and owner during construction. This would apply especially to out-of-town purchasers who otherwise might not know about the non-compliance or the detrimental effect(s) it might have on neighbors or the community. Direct contacts with them as early as possible will save them money in the long run and prevent neighborhood resentment before they even have a chance to become neighbors. In this sense, the mediation process serves the newcomer and builder, as well as the community.

### **VARIANCES**

The Board may recommend variances to the covenants, but only by two-thirds (2/3) vote of the Board. All variances shall be considered at a public hearing for affected neighbors

For a public hearing, written notification by the Board shall be distributed to the parties involved no later than ten (10) days prior to the hearing. The subsequent decision of the Board shall be final.

Board approval of a variance shall be based on the determination that it is an exception to the rule; that it represents an acceptable alternative when unreasonable difficulties or unnecessary hardships are placed in the way of carrying out the strict letter of the covenants; that it is in harmony with the general purpose, scope and spirit of the covenants; that it will not adversely impact on public safety and neighborhood well-being; and that it may involve new construction, materials, applications, or technology that meet the community's building and appearance standards, but which were not available at the time the original covenants were recorded.

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## ***GREENBRIER PROPERTY OWNERS ASSOCIATION***

BULLETIN NUMBER 6

ASSUMPTION OF COVENANTS

June 21, 1995

To All Residents of Greenbrier:

On June 30, Weyerhaeuser Real Estate Company officially will terminate its development operations in Greenbrier, and legally will assign its responsibilities for building plan approval and covenant compliance to the Greenbrier Property Owners Association.

At that time, owners must apply to the Association's Architectural and Covenant Committee before starting construction of a new house, adding to their existing home, erecting new structures on their lot, clearing or landscaping their property, or changing previously approved plans for their house exteriors and/or lot appearance (tree removal, grading, filling, drainage, driveway, walkway, fence, antennae, paint color, siding material, etc.). For forms and materials, you are requested to write directly to the Architectural and Covenant Committee, Greenbrier Property Owners Association, PO Box 13943, New Bern, NC 28561.

Starting in July, reviews and inspections by the Committee will be made according to new procedures. Plans will be reviewed formally on the first Tuesday of every month at The Emerald Golf Clubhouse, located at 5000 Clubhouse Drive, New Bern, North Carolina, 28562, from 7:00 to 8:00 p.m., or longer if necessary, (excluding holidays). Members of the Committee will be available during normal workday hours for pre-clearing and pre-construction site inspections. Scheduling and accessibility will be arranged to avoid unnecessary delays and conform to the covenants.

To answer questions on changes in current procedures made necessary by this transition, contact any of your Sectional Representatives on the Committee. The attached list of Committee members is provided for your convenience. Also being prepared for your reference is an operations statement setting forth the Committee's establishment and procedures, as well as a copy of your section's covenants. Please keep this material with your Greenbrier property records.

Your neighbors on the Committee have worked diligently to prepare for this changeover. In particular, they have trained by being involved on many WRECO plan reviews and inspections. They have developed the procedural refinements necessary to ensure objectivity, consistency and constructive common sense for future relations with owners, builders and realtors. We hope all residents will cooperate in the new process to maximize its benefits to the community, and to acknowledge the Committee's essential role in protecting mutual residential interests.

Whether a member of the GPOA or not, all residents are bound by our covenants. We accepted them when we invested in Greenbrier. By design they give us added protection to city building codes and provide primary local authority over other property uses such as wetlands and tree preservation. The covenants can work for us only if we abide by them and participate fully in the system. The first step is to seek approval for improvements we wish to make on our properties.

THE BOARD

Stan Lettas, Bob Jacobson, Maureen Zachmann, Bert Harrison, Don Novek, Bob Perry

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