

Pirates' Cove Home Owners Association

Clubhouse Reservation Agreement ("Agreement")

The Pirates' Cove Homeowners Home Owners Association ("PCHOA") Clubhouse (the "Clubhouse") is a community facility, maintained by the PCHOA, that is available for private rentals by homeowners or their authorized tenants ("Residents"). This Agreement governs the rental of the Clubhouse for exclusive use by a Resident. The provisions of this Agreement have been established to ensure proper use and care of the Clubhouse by all Residents. **Please read through this agreement thoroughly.** By signing this Agreement, you, the undersigned Resident, agree as follows:

A. RENTAL REQUIREMENTS and PROCESS:

- 1) Residents must be current on all dues/monies owed to the HOA in order to reserve the Clubhouse.**
- 2) Only adult Residents (at least 21 years of age) of PCHOA are eligible to reserve the Clubhouse. For authorized tenants, The Tenant Authorization Form must be signed by the homeowner and returned to the address given by the property manager, before a tenant is eligible to rent the Clubhouse. A homeowner who delegates their amenity privileges to a tenant gives these rights to use such amenities privileges during the term of any lease between a homeowner and an authorized tenant by which such privileges are delegated. Such delegation must occur through a long-term lease of the homeowner's residence and cannot be made for a one-time-only Clubhouse reservation. Residents that are more than ninety (90) day past due on an assessment are ineligible to rent the clubhouse.
- 3) Clubhouse reservations will only be confirmed, and the requested date reserved, once the Resident has fully executed this Agreement and returned it to the management company and the Resident has paid both the Deposit and Reservation Fee, as defined below. If multiple reservation requests are received for the same date, the reservation will be given to the Resident whose executed Agreement, Deposit and Reservation Fee are first received by the management company.
- 4) All Clubhouse reservations are for a full day, which is defined as 9:00 AM to 11:59 PM. Only one reservation will be allowed per day. Residents reserving the clubhouse must vacate the Clubhouse no later than midnight, at which time the Clubhouse, breezeway and surrounding areas shall have been thoroughly cleaned and all trash shall have been picked up and disposed of properly.
- 5) Reservations may not be made within five (5) business days of the requested date. This policy is in place to ensure that the Deposit and Cleaning Fee have cleared the bank and may be refunded, as applicable, by the management company.
- 6) THE CLUBHOUSE AND THE ADJOINING PCHOA PROPERTY (SUCH AS WALKWAYS, PARKING LOTS, AND GROUNDS) ARE PROVIDED ON AN "AS-IS" BASIS WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

B. SECURITY DEPOSIT and RESERVATION FEE:

- 1) There is no rental fee to rent the clubhouse. However, a two hundred fifty-dollar (\$250.00) security deposit (Deposit) is required to secure the Clubhouse on the requested date. Payment can only be made by personal check or cashiers' check. No monies will be accepted from organizations. The

Resident is financially responsible for any and all damage occurring to the Clubhouse and its contents, or surrounding areas, for the rental period.

- 2) In addition to the Deposit, Residents must pay a fifty-dollar (\$50) Reservation Fee, which helps cover the cost of having the Clubhouse routinely cleaned and any expense incurred to inspect the Clubhouse, in accordance with Section F.5 of this Agreement. The Reservation Fee is non-refundable and must be paid in advance at the same time as the Deposit. The Deposit will be refunded only after the Clubhouse, its content, and surrounding premises have been inspected. Every effort will be made to return the Deposit, if applicable, within ten (10) days of the reservation. Failure on the part of the Resident and/or their guests to properly secure, clean and/or repair any damage to the Clubhouse including without limitation its furniture, ping pong table, interior surfaces, including walls and ceilings, or any other portion of the adjoining PCHOA property (such as walkways, parking lots and grounds) will result in the forfeiture of the Deposit.
- 3) In the event damages and/or cleaning costs exceed the Deposit, the Resident will be invoiced for the amount(s) exceeding the Deposit. Payment of the invoice is due within ten (10) days of receipt. If the invoiced amount is not paid, the amount will be added to the homeowner's account, and failure to pay such amount may result in suspension of amenities privileges.
- 4) Please submit two (2) checks made out to Pirates' Cove HOA – one for the Deposit and one for the Reservation Fee. Please contact the property manager on where to send the checks and the last page of the Agreement. Please include your key card number so that the card system can be set to allow you to access the clubhouse for your reservation.
- 5) Checks covering the Reservation Fee will be deposited into the PCHOA bank account upon receipt. If a check is returned, the reservation(s) is canceled and current NSF charges will be added to the Resident's account. Checks covering the Deposit will not be returned; however, if the rental has any issues, it will then be deposited.
- 6) Deposits and Reservation Fees are fully refundable if written notice of cancellation is given no later than ten (10) days prior to the reserved date. Notice of cancellation given less than ten (10) days from the reserved date *may* result in forfeiture of the Deposit. The Reservation Fee will be refundable in the event of cancellations given less than ten (10) days from the reserved date. This policy is in place to avoid last minute cancellations that prevent other Residents from making reservations.

C. **KEY CARD ACCESS:** Access to the Clubhouse is provided via a key card system on the front door of the Clubhouse. The key card indicated at the end of this Agreement will be activated from 9:00 AM to 11:59 PM of the reservation date. (**In the event a Resident does not have a key card**, you may submit the key card request form with your check and fully completed Agreement. A key card will be mailed to you prior to the event date.)

D. RELEASE, INDEMNIFICATION and LIMITATION of LIABILITY:

- 1) In consideration of permission granted to utilize the Clubhouse, the Resident assumes all responsibility, risks, liabilities and hazards incidental to the use of the Clubhouse (including, but not limited to, the serving of alcoholic beverages) and hereby release and forever discharge PCHOA and its agents, manager, representatives, directors, officers, successor, assigns and any and all other

associated entities or individuals (collectively 'Released Parties') from any and all loss, claim, injury, demand, liability, damage, action, judgement, compensation, cost or expense of whatever nature, including but not limited to, claims for property damage, personal injury, or death, whether or not and negligence or breach of duty by any of the Released Parties is alleged to have contributed thereto, in whole or in part, when such injury or damage shall result from, arise out of, or be attributable in any way to the use of the Clubhouse.

- 2) The undersigned Resident agrees to indemnify, defend at Resident's own expense, and hold the Released Parties harmless from, and against, any and all property damage, personal injury, death or other claim arising out of or in any way related to the use of the Clubhouse by the Resident or the Resident's family members, employees, agents, servant, guests or invitees, whether or not any negligence or breach of duty by any of the Released Parties is alleged to have contributed thereto, in whole or in part. This release and indemnification agreement is intended to be as broad and inclusive as permitted by the laws on the State of North Carolina and if any portion is held invalid, the remainder will continue in full legal force and effect.
- 3) IN NO EVENT WILL PCHOA BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHETHER IN AN ACTION BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, WHETHER OR NOT PCHOA HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF. THE FOREGOING LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS ARE AN ALLOCATION OF THE RISK BETWEEN THE PARTIES AND WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS IN ITS PURPOSE.

E. CLUBHOUSE RULES:

The following rules (Clubhouse Rules") shall apply to all rentals:

- 1) The Clubhouse is the property of the PCHOA and should be treated with care and respect.
- 2) No unlawful activity shall be conducted in the Clubhouse at any time nor shall any inappropriate behavior be allowed.
- 3) **The Resident who made the reservation MUST BE PRESENT DURING THE ENTIRE EVENT.** Guests must be accompanied by the Resident.
- 4) Per the Fire Marshall code, a **maximum of fifty (50) people are allowed in the Clubhouse and adjoining breezeway area at one time.** Please plan your event accordingly.
- 5) The Clubhouse **MAY NOT be used for personal gain** by anyone (i.e. no parties/events in which you (or anyone you invite), directly/indirectly sell, take orders for or solicit monies for goods or services. The Clubhouse shall be used for private events by Residents and their guests only and may not be used for events that are "open to the public". No admission fee or charge of any kind may be levied to the guests of an event.
- 6) If alcoholic beverages are to be served at an event, the Resident assumes full liability for such, and must obey all state alcohol regulations and is responsible for fines should those laws be violated. If a permit is required for the sale of alcohol, then the Resident may be required to present such proof to the management company. The Resident assumes responsibility that no one under the age of twenty-one (21) will be served or consume alcoholic beverages; no one who is intoxicated can be served alcoholic beverages; any intoxicated guest must not be permitted to drive themselves home when leaving the event.

- 7) In compliance with the Town of Cary Ordinances, Section 22, Recreational Noise Ordinances, events may play music (up to 60 decibels) prior to (:00PM. Thereafter, music must be played at a more moderate level (50 decibels). Music is only permitted **inside** the Clubhouse; music should not be heard on the breezeway or outside, i.e. you cannot leave the doors open with the music blaring. The Town of Cary has the right to terminate the event if a noise complaint is received regarding the event hosted at the Clubhouse and such noise infringement continues after the complaint has been communicated to the Resident. The Town of Cary Recreational Noise Ordinance is strictly enforced after 9:00 PM seven (7) days a week.
- 8) All Residents, and their guests, must park in designated parking spots. **Parking is not allowed on the grass areas around the Clubhouse.** If there is a large number of guests, please direct them to the back parking lot. Failure to comply with this rule may result in vehicles being towed and/or forfeiture of the Deposit.
- 9) Smoking is not permitted inside the building, on the breezeway or any areas adjacent to the Clubhouse.
- 10) No pets/animals allowed INSIDE the CLUBHOUSE (other than service animals).
- 11) No window coverings of any kind may be placed on the windows, doors or sliding glass doors unless approved in advance by PCHOA Board.
- 12) **NO TAPE, STAPLES OR THUMBTACKS may be used on the Clubhouse walls, ceilings, or doors.** Decorations may ONLY be affixed to the painted trim or the dragon fly hooks above the doorways. All methods used to affix decorations must be completely removed. Failure to comply with this rule will result in forfeiture of the Deposit. The use of Glue and Glitter is greatly discouraged.
- 13) Guests must be adequately supervised at all times. No running on the breezeway and concrete areas.
- 14) No tents, canopies, poles or any other game or recreational devices or structures of any kind should be placed on or driven into the ground of the Clubhouse lawn without prior permission from the Board. This includes inflatable play structures.
- 15) Furniture may not be moved to the outside of the building. Outside furniture may not be used inside the building. The ping pong table may be moved to the storage closet at the front of the building.
- 16) All doors should remain closed, but unlocked, unless entering or exiting. Failure to comply with this rule will forfeit the Resident's Deposit.
- 17) **If the Clubhouse is rented during pool season and the Resident, and their guests, intend to use the pool, everyone MUST ADHERE to the PCHOA Pool Rules and Policies. The Resident is responsible for conveying the PCHOA Pool Rules and Policies to all their guests.**
- 18) Carrying a concealed handgun or possession or displaying a firearm, or other deadly weapon, as defined in N.C.G.S. 14-269(a), on PCHOA property is prohibited.
- 19) No open flames shall be used in or around the perimeter of the Clubhouse in the form of a decoration. Open flames shall only be allowed for ceremonies (the lighting of a candle as a symbol in a ceremony), birthday cakes and chafing dishes. Extreme caution should be given by the Resident if an open flame is used at their function.
- 20) A grill is available for Resident's use in close proximity to the clubhouse and the Resident should ensure this area is free of food and debris after it is used.

- 21)** PCHOA is not responsible for any valuables or personal property left on the premises.
- 22)** Failure to follow any of these Clubhouse Rules will result in forfeiture of the Deposit.

F. OTHER:

- 1)** The Property Manager and/or any PCHOA Board member (or the clubhouse manager should one exist) has the right to be present or visit the Clubhouse during the event to ensure all the rules and policies are being followed. If any rule violations are found during the visit, the person listed at the beginning of this paragraph has the right to enforce the rules and/or end the function. Residents, and their guests, will be asked to leave and the Deposit will be forfeited.
- 2)** Other PCHOA members (and their guests) have the right to use the breezeway and pool (if applicable) and must be afforded the courtesy of enjoying these amenities.
- 3)** Surveillance devices may be used on the premises. The purpose of such surveillance devices is for the safety and security of Residents, his/her guests and the property. Video from the surveillance devices may be used as evidence for prosecution or damage assessment if necessary.
- 4)** In the event you encounter damages or uncleanliness when you enter the Clubhouse, immediately notify the Property Manager at the phone number listed inside the Clubhouse. If after hours, please leave a detailed message with the answering service. A detailed checkout sheet can be found on the countertop or on the wall near the pantry. This sheet must be filled out and left on the countertop after the event.
- 5)** The Clubhouse, breezeway, parking lot, garbage can area and all adjoining property will be inspected by after each event. The Clubhouse, breezeway, parking lot, garbage can area and adjoining property must be returned to its proper condition at the end of each rental. Failure to do so will result in forfeiture of the Deposit.
- 6)** As the Clubhouse (includes windows and doors) is locked during non-rental periods, the Resident is responsible for ensuring the building is properly secured when leaving the premises. If the property is not properly secured, the Resident is responsible for any loss, theft or damage to the interior of the Clubhouse. Additionally, failure to properly secure the Clubhouse may result in loss of future rental privileges.
- 7)** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. No amendment, modification or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties.
- 8)** If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to affect the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.
- 9)** This Agreement will be governed by the laws of North Carolina without regard for its choice of law provisions. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the courts of North Carolina, and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue.
- 10)** All notices and other communications herein permitted or required under this Agreement will be in writing. Notice will be considered given upon receipt. The Resident may not assign this or any rights or obligations hereunder without the prior written consent of PCHOA.

I have carefully read and understand the terms of this Clubhouse Reservation Agreement, and agree to be bound by the its terms. PLEASE FILL OUT ALL BLANK LINES!

Signature: _____ Date: _____

Homeowner or
Authorized Tenant: _____

Address: _____

Best Number to
reach you: _____

E-mail: _____

Reservation Date: _____

Purpose for rental
(please be specific) _____

Start & End Time: _____

Key Card Number:

**REGARDLESS OF PAYMENT, YOU WILL NOT BE ABLE TO ACCESS THE CLUBHOUSE
FOR YOUR RESERVATION IF YOU DO NOT PROVIDE YOUR KEY CARD NUMBER. THE
LIFEGUARDS CANNOT LET YOU INTO THE CLUBHOUSE DURING POOL SEASON.**

**PLEASE RETURN ONLY THIS LAST PAGE
WITH YOUR CHECKS!**