

MIMOSA BAY HOMEOWNERS ASSOCIATION

<p>SUPPLEMENTAL RULES FOR THE MIMOSA BAY SUBDIVISION</p>

Summary of Changes

The following Summary of Changes have been made to the Supplemental Rules on the date specified. Small formatting changes are not included.

DATE	LOCATION	DESCRIPTION
Apr '19	SR-1 para 2.c	ACMC included as approving authority for existing home modification where previously only ARC had been listed.
Apr '19	SR-1 para 2.c & SR-7	"Design Review Guidelines" updated to " <i>Design and Architectural Guidelines</i> " to reflect correct source document name and provide consistency of language.
Apr '19	Deleted	Rule on Political Signs moved to <i>Design and Architectural Guidelines</i> . The Rule was previously listed "pending update to Design Review Guidelines"
Apr '19	Deleted from SR-3	Requirement for Golf Cart Registration with HOA removed because rule is not reasonably enforceable and creates an administrative burden.
Apr '19	Deleted from SR-3	Requirement for insurance on golf carts removed because rules in not reasonably enforceable and creates an administrative burden Owners and operators are still liable for damage or injury.
Jan'24	SR-6	Specification for Temporary Parking of boats to codify standing policy.
Apr '19	SR-6	Amenities Use Rules added to clarify appropriate use.
Jan '24	SR-7	Enforcement and Remedies added to provide clarity on steps and timelines for reasonable rule enforcement.
Oct '19	SR-6	Lap Swim updated to add evening lap swim hours and clarify use restrictions.
Oct '19	SR-6	Boat Corral rules updated to remove restrictions on use by renters.

Authority and Purpose

All Owners, tenants and occupants of lots within the Mimosa Bay Subdivision are required to comply with the Community's Governing Documents, which include: (1) *Declaration of Covenants, Conditions and Restrictions for Mimosa Bay Subdivision*, as amended (CCRs); (2) *Mimosa Bay By-Laws*, as amended (By-Laws); (3) *Mimosa Bay Design and Architectural Guidelines* (Rev. April, 2019); (4) *Declaration of Conservation Covenants, Conditions and Restrictions (Conservation Declaration)*; and (5) Subdivision Street Disclosure.

The general purposes of the Community's Governing Documents, including these *Supplemental Rules*, are to: describe the rights and obligations of the Homeowners Association (HOA) and each property Owner in the Community; comply with applicable federal, state and county laws; promote safe, harmonious living; and maintain, preserve, enhance, and protect property values and community assets.

The By-Laws provide that the powers and duties of the HOA Board of Directors (Board) include the Board's authority to adopt, amend and repeal any reasonable rules and regulations not inconsistent with the CCRs [By-Law Art. IV, § 4.6(d)].

These *Supplemental Rules* (SR) for Mimosa Bay are promulgated to clarify the Board's intent when interpreting and enforcing certain provisions of the Community's existing Governing Documents; and, in other instances, to adopt new rules and regulations approved by the HOA membership.

SR-1: BURNING

[References: reissuance from April, 2015; CCR Art. VII, § 3.B.; Conservation Declaration, Art. I, § 3.E.; North Carolina Air Quality Rules Tit. 15A, Ch. 2, Subch. 2D § 1900; Onslow County Solid Waste Management Ordinance Art. VI]

Prohibited burning pursuant to Conservation Declaration, Art. I, § 3.E. is construed to include the following.

Burning.

1. Open burning of "vegetative and non-vegetative materials" is strictly prohibited throughout the Mimosa Bay development. This restriction supersedes and takes precedence over all open burning otherwise authorized under applicable state or county law.

2. Open burning for "recreational purposes," however, is a recognized exception to (exempt from) the state and county open burning requirements; and is authorized within the Mimosa Bay development by homeowner use of portable and permanent fire pits, subject to the following safety and other requirements:

a. The use of fire pits is the only authorized form of "recreational burning" by home owners; and this restriction precludes open "camp fires" uncontained by a fire pit;

b. "fire pits" are understood to be either permanent or portable, and to be either wood-burning or propane;

c. the installation of a permanent fire pit requires pre-approval of the Architectural Control and Maintenance Committee (ACMC) for location, size, design and materials (*Design and Architectural Guidelines*);

d. all fire pits shall have a safety screen utilized during use to protect from wind and to prevent sparks from flying out;

e. portable fire pits shall be set atop a surface consisting of concrete, stone, gravel, brick, slate, or other fire-resistant composite extending on all sides a minimum 24 inches from the outer edges of the burn pit or container;

f. all fire pits shall be located at a minimum of 15 feet from the user's house, shed or other structures, and neighbors' yards;

g. the burning of household trash, dangerous materials or explosives, and synthetic materials (e.g., tires, asphalt materials such as roofing materials, construction materials and packaging, wire, electrical insulation, and treated or coated wood) is prohibited;

h. avoid the use of a fire pit when it is windy or the wind creates the likelihood of causing a nuisance (e.g., causing physical irritation or exacerbating a documented medical condition, visibility impairment, or evidence of ash or soot on a property or structure other than the user's);

i. keep safety in mind at all times, e.g., the use of fire pits should be supervised by a person of 16 years or older; avoid placing a fire pit near low hanging limbs/branches or in any enclosed area; keep a fire extinguisher or water hose close at hand; check the wind direction before use; don't use highly flammable liquids (gasoline, lighter fluid, etc.) to start or re-light fires; don't wear flammable or loose-fit clothing; avoid soft woods like pine or cedar because they can "pop" and throw sparks; know how to properly dispose of ashes; extinguish the fire completely after use, etc.).

SR-2: NUISANCES

[Reference: CCR Art. VII §3.B.]

CCR Art. VII § 3.b. is construed to include the following.

1. Quiet Enjoyment.

No obnoxious or offensive activity shall take place on any property within the Mimosa Bay development, nor shall anything be done which may be, or may become a danger, nuisance, annoyance to a neighbor, or the neighborhood or persons using the Community's roadways, common areas, or amenities. Any unreasonably loud, boisterous, or drunken behavior by anyone who causes the disturbance is prohibited. A violation of these restrictions and prohibitions will be deemed to have occurred if the offensive activity is persistent as to annoy or disturb the quiet, comfort or repose of a reasonably prudent person.

2. Inappropriate Behavior.

a. No immoral, improper, offensive or unlawful use shall be made of any property within the Mimosa Bay development, or any part thereof. Unless written exception is provided in the

Page 4 of 11

Community's Governing Documents or otherwise promulgated by the Board, all laws, rules, regulations, ordinances or requirements of any governmental agency having jurisdiction thereof, relating to any Lot or other portion of Community property, shall be complied with, by and at the sole expense of the Lot Owner or other responsible party, whichever shall have the obligation to maintain such portion of the property.

b. No person within the Mimosa Bay development shall engage in any abusive or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other persons, including but not limited to, the HOA Board and Committee members, business people, contractors, and Owners, tenants, occupants and their visitors and guests.

SR-3: GOLF CARTS

[References: NCGS CH. 20 §§ 20-4.01(12b), (26), (27h), 137.4A; NCGS CH. 153A § 245; NCGS CH. 160A § 300.6; CCR Articles VII and X]

CCR Article VII § 3.E. is construed to include the following.

Golf Carts

a. **Purpose.** The purposes of this rule are to promote the health, safety and welfare of persons operating golf carts within the Community, and to protect the safety of golf cart passengers and other users of the Community's streets. No golf cart may be operated on the streets of the Mimosa Bay Subdivision (Community) except as provided herein

b. **Scope.** This rule applies to all Mimosa Bay residents, including but not limited to, all property Owners, and their Renters, family members, visitors and guests who operate and ride on any golf cart on the Community's streets.

c. **Definitions.**

- **Golf cart:** "Street legal" and "Non-street legal" golf carts authorized for operation on the Community's streets.
- **Non-street legal golf cart:** a 4-wheeled gas or electric powered vehicle, defined as designed and manufactured for operation on a golf course for sporting or recreational purposes that is not capable of exceeding speeds of 20 miles per hour, and has liability insurance coverage in amounts not less than required by North Carolina law for motor vehicles.
- **Street-legal golf cart:** a low speed vehicle (LSV), defined as a four-wheeled gas or electric powered vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour, that is registered and titled in accordance with North Carolina Department of Motor Vehicle (DMV) requirements [<http://www.dmv.org/nc-north-carolina/car-registration.php>], and that has liability insurance coverage in amounts not less than required by North Carolina law for motor vehicles.
- **Resident.** Mimosa Bay Lot Owners and their Renters, family members, visitors and guests.

- **Golf cart owner:** Any Mimosa Bay resident who owns and/or holds legal title (for Street Legal Carts) to a golf cart operated on the Community's streets, including lessees under a lease-to-purchase type agreement subject to a conditional sale, or other form of lease.
- **Golf cart operator:** Persons 16 years of age or older holding a valid driver's license.
- **Driver's License:** A valid license issued to operate a motor vehicle issued by North Carolina or any other state.

d. **Prohibited vehicles.** The following vehicles are not golf carts within the meaning of this rule and are prohibited from operation on the Community's streets: all-terrain vehicles (ATVs), and 4-wheel utility vehicles (UTVs), "Gators," "Mules," similar utility vehicles, and "go-carts."

e. **Standard operation.** All golf cart operators:

- Shall be licensed drivers at least sixteen (16) years of age or older. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on Community streets.
- Shall not operate a golf cart on Community streets at a speed greater than 25 miles per hour, nor at a speed greater than reasonable and prudent for the existing conditions.
- Shall operate any golf cart without lights only during the daylight hours of sunrise to sunset, except golf carts meeting the following may operate at any time: Golf carts having two (2) operating headlights, one on each side of the front of the golf cart and two (2) operating tail lights, one on each side of the rear of the cart; and all four (4) lights must be visible from a distance of 500 feet.
- Shall at all times be observant and attentive to the safety of themselves, and others, including their passengers, other motorists, bicyclists, and pedestrians.
- Shall comply with all traffic signs, use extreme caution in inclement weather, and avoid excessive speed, and sudden starts, stops and turns.
- Shall adhere to all applicable laws, including those banning the possession and use of alcoholic beverages, illegal drugs and controlled substances while operating a motor vehicle. In addition, no golf cart containing any open container of alcohol shall be operated on the Community's streets.
- Shall operate the golf cart at the far right of the road, and yield to all overtaking motor vehicles and to pedestrian traffic.
- Shall not operate a golf cart while also using a mobile phone or any other electronic device to read or transmit communications, including but not limited to text messaging and email, to or from another person or other entity.
- Shall use hand signals when executing turns for any golf cart not equipped with turn signal indicators.
- Shall not allow the number of people in the golf cart to exceed the maximum capacity specified by the manufacturer. The operator shall require passengers to be safely seated before putting the vehicle in motion, utilize available seat belts, and not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags. No one is allowed to stand on a golf cart while it is in operation.

- Shall not use a golf cart to tow persons, or another cart, trailer or vehicle or apparatus of any kind, including but not limited to, any boat, boat trailer, or person on a skateboard, roller skates, or bicycle
- Shall park only in designated parking spaces. Parking is not allowed on sidewalks, including the sidewalks at the Community Clubhouse, nor on any common areas designated for protection of wetland or other environmental conservation, or on any Owner's Lot without that Owner's authorization. The parking brake must be set in an unattended golf cart.

f. **Disclaimers.**

(1) The HOA does not provide golf cart inspection service. The HOA will defer to North Carolina DMV registration requirements as acceptable evidence of the golf cart's equipment, safety features, and operational capability; and for non-street legal golf carts, will defer to the signed and dated certification on the golf cart Owner's application form.

(2) The Declarant, Developer and Mimosa Bay Homeowners Association, Inc. (HOA): assume no legal responsibility or liability for the operation of any golf cart, or riding upon any golf cart, by any person either inside or outside the Mimosa Bay Subdivision; and neither advocate nor endorse any golf cart as a safe means of transportation on the Community's roadways.

g. **Assumption of risk; waiver and release of liability.** All persons who operate or ride on a golf cart on the Community's streets do so at their own risk and peril; assume all liability for property damage, bodily injury, or death from operating or riding upon a golf cart; and by virtue of operating or riding upon a golf cart expressly waive and release the Declarant, Developer, and the HOA and its Members, Board Directors officers, Committee Members, and any other authorized agent or representative thereof from all liability, suits, claims, demands, losses, and damages caused in whole or in part by operating or riding upon any golf cart on roadways within the Mimosa Bay development.

h. **Penalties and Remedies.**

a. Each violation of a provision of this rule may subject the golf cart owner, in the sole discretion of the Board of Directors, to a Notice of Hearing before the Board for its determination whether to impose a fine not exceeding \$100 per violation, and/or the 1-year revocation of the owner's privilege to operate the golf cart on Community streets in all cases of 2 or more violations of this rule within a 2-year period.

b. The assessment of any fine, or revocation or denial of any golf cart owner's privilege to operate a golf cart on Community streets, will be processed in accordance with applicable State law and the HOA's governing rules and enforcement procedures.

c. The procedures and remedies available to the HOA to enforce this rule are over and above those prescribed for violations of North Carolina motor vehicle laws, including but not limited to, allowing an underage driver to operate a golf cart; operating, or aiding and abetting the operation of a golf cart under the influence of an impairing substance; or operating a golf cart in a careless or reckless manner, etc.

d. The procedures and remedies available to the HOA to enforce this Rule are also subject to the CCRS, By-Laws, and North Carolina Planned Community Act, as applicable.

SR-4: ANIMAL CONTROL

[References: CCR Article VII §§ 3.B. and 3.F.; NCGS CH. 67 §§ 67-4.1(a)(1) and (2); Code of Ordinances for Onslow County CH. 4;]

CCR Art. VII § 3.F. is construed to include the following.

Control and Responsibility. All dog owners, including all dog handlers acting at a dog owner's direction or otherwise on the owner's behalf, are responsible to maintain immediate control of their dogs at all times. Pet dogs shall be effectively contained on the Owner's property; and when off an Owner's property, dogs shall be on a leash or similar restraint connected to a collar or harness, and sufficiently controlled, to prevent the animal from breaking loose. County ordinances provide that the actions of a dog may constitute a public nuisance when the animal disturbs the rights of, threatens the safety of, or injures a member of the general public; or interferes with the ordinary use and enjoyment of another person's property. On-going, continuous dog barking, for instance, shall be deemed a nuisance to other Lot Owners.

Incident reporting and enforcement.

(1) All Community residents may report any violation of applicable State and County animal control laws or ordinances to appropriate authorities, including but not limited to, Onslow County Animal Services, and where necessary, such as dog-bite cases, to the County Health Director.

(2) All such violations may also be reported to the HOA. In general, the HOA will defer to any investigation, case-processing, and/or potential corrective actions or sanctions initiated by County authorities for incidents of animal control violations. However, this does not preclude the HOA from also enforcing its animal control rules, as appropriate.

(3) The HOA is particularly concerned in the interests of Community safety to receive prompt notice and be assured decisive action will or has been taken to remedy and abate any incidents involving "potentially dangerous" or "dangerous dogs" in the Community. As provided by State law, a "dangerous dog" is one which without provocation has killed or inflicted severe injury upon a person, or has been designated by cognizant authority to have engaged in one or more of the behaviors of a "potentially dangerous" dog. A "potentially dangerous dog" is one which has been found by cognizant authority to have bitten a person that resulted in broken bones, or disfiguring lacerations or required cosmetic surgery or hospitalization; or killed or inflicted serious injury upon a domestic animal when not on the owner's real property; or approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

Awareness. All pet dog owners are encouraged to familiarize themselves with applicable North Carolina state laws [<http://www.ncleg.net/gascripts/statutes/StatutesTOC.pl?Chapter=0067>] and Onslow County Ordinances [https://www.municode.com/library/nc/onslow_county/codes/code_

of_ordinances?nodeId=COOR_CH4AN] concerning Animal Control.

SR-5: NUISANCES - LOT MAINTENANCE

[References: CCR Art.II § 2, Art VII § 3.B.; North Carolina Department of Environment and Natural Resources Stormwater Permit No. SW8 050325 (June 13, 2005)]

CCR Article II § 2, and Article VII § 3.B. are construed to include the following.

Pine straw and other beds. In addition to routine Lot maintenance, such as mowing, trimming, edging, and the like, Lot Owner maintenance responsibilities also include maintaining all pine straw and other beds, including both builder installed and Owner installed beds, to prevent the development of unkept conditions due to weeds, underbrush, tree and lawn debris, and other unsightly growth and objects.

Drainways, swales, and ditches. The Community's covenants require that no plantings or other materials shall be allowed on any easements that may obstruct or reverse the flow of water in drainways, swales or ditches that exist on an Owner's Lot. In addition, the Community's stormwater permit requires that drainage swales be maintained and operational for their intended use. Accordingly, these obligations contemplate a shared maintenance responsibility by the HOA throughout the Community's common areas, and by Owners on their own Lots, to not obstruct or reverse the flow of water in drainways, swales or ditches.

SR-6: AMENITIES USE

[References: CCR Art.II § 1.A.]

Pursuant to CCR Article II § 1.A the Association makes the following reasonable rules governing the use of Common Elements by the Owners

Pool Use.

1. Swim lessons are permitted for residents and their guests only during off-peak hours so as to not prevent other residents from having reasonable use of the pool.
2. Adult Lap Swim Hours are established Dawn-8am as well as 6pm-Dusk. Any other use of the pool will be restricted to the areas of the pool to not interfere with lap swimmers. If no lap swimmers are present during these hours the entire pool is open to all residents in good standing.

Sports Practice. The tennis courts and all other Mimosa Bay Amenities are for the exclusive use of Mimosa Bay Homeowners who are in good standing, their tenants and guests. Organized sports are not authorized without prior approval from the Board of Directors.

Clubhouse Use.

1. The clubhouse is available for use by Homeowners or their tenants between the hours of 8am and 8pm, except when reserved in advance for a community or private event. The use of the clubhouse by one resident should not prevent the reasonable use of the clubhouse by another resident; such use requires a private reservation.

2. The daily clubhouse reservation fee is \$50 per day. Set up and cleanup will occur between the hours of 8am and 8pm on the day reserved, exception to these hours are on a case by case basis. An hourly fee of \$10 per hour is authorized for regular events which total duration (to include set up and cleanup) do not exceed 3 hours.
3. Only Homeowners in good standing, or their tenants, may reserve the clubhouse.
4. Homeowners in good standing, or their tenants, may reserve the clubhouse at the standard rate for their profit if they are providing a community oriented service to Mimosa Bay residents only.
5. Homeowners in good standing, or their tenants, may reserve the clubhouse at the standard rate for non-profit activities involving non-residents with prior approval of the Board of Directors.

Boat Corral.

1. Boat Corral use is restricted to Mimosa Bay residents whose property is in good standing.
2. Due to limited space availability, only boats/boat trailers/ recreational vehicles/ and personal watercraft on trailers with current registration are permitted to be stored in the boat corral.
3. Assignment of spaces will be managed by the on-site CAMS representative and verified annually. All current and future requests to obtain space in the boat corral will be submitted via the boat corral lease agreement. New requests will be placed on a waiting list and notified when a space becomes available.
5. The minimum length of boats will be 10 ft and will not exceed 28ft. The minimum length of trailers will be 13ft and will not exceed 35 ft in length.
6. Homeowners and/or their renters who have lost their amenities privileges (see SR-7) will be given (30) days to remove their property from the boat corral. After (30) days, the HOA will have the property removed at owner's expense.
7. Any boats, trailers or any other property found in an unauthorized spot in the boat corral may be removed immediately, without prior notification, at the owner's expense.
8. No boats and/or boat trailers shall be permitted to remain on any Lot or on any street at any time.

SR-7: ENFORCEMENT AND REMEDIES

[References: CCR Article X §§ 3]

Pursuant to CCR Article X § 3.b the Association sets the following schedule of fines for violation of the CCRs, these Supplemental Rules and/or Design and Architectural Guidelines.

Courtesy Notices. Violations of the *Mimosa Bay CCRs, Supplemental Rules and/or Design and Architectural Guidelines* will be logged by the management company (IPS) and a courtesy notice issued to the homeowner. Once the discrepancy is corrected, homeowners should respond

Page 10 of 11

to the notice to inform the management company of the correction as well as if they believe the notice is in error.

Hearings. If after (30) days the homeowner has failed to adequately correct the discrepancy or communicate an acceptable alternate course of action to the management company, a hearing will be scheduled before the board of directors. During the hearing the board is authorized to impose fines against the homeowner for infractions. It is the homeowner's responsibility to appear for the hearing in person or via teleconference as specified in their hearing notice, or to submit a written response. In addition to fines, the Board may vote to suspend all services and privileges provided by the Association to an Owner and/or their renter for any period during which any Assessments against the Owner's lot remain unpaid for at least (30) days or for any period that the owner or the Owner's Lot is otherwise in violation. Additionally, the Association may enter upon the Lot after (30) days' notice and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner.

Fines. The board may not impose fines prior to a hearing being conducted. Homeowner failure to appear at the hearing does not preclude scheduling of fines. If the discrepancy is not corrected and reported the following fines will be charged to the homeowner on the days following the hearing.

- as determined by the board of directors but cannot exceed \$100 a day per violation

Annual Assessments. Annual Assessments are established with the budget each year. As of 2024 the Annual Assessment for each lot is \$1,167.60 per year, charged monthly at \$97.30 each month. Assessments are due on the first of each month. A grace period of (30) days allows for mailing and processing to be completed, after which time a \$20 late fee and interest at 18% will be charged on unpaid balances. Each month, late fees and interest will be assessed on balances more than (30) days old. It is the responsibility of each owner to establish their billing account through the online homeowner portal at [IPSNC.com](https://ipsnc.com)