

BK: RB 6432
PG: 2279 - 2282

2021016617

NC FEE \$26.00

RECORDED:

04/05/2021

NEW HANOVER COUNTY,

04:49:41 PM

TAMMY THEUSCH PIVER

BY: KELLIE GILES

REGISTER OF DEEDS

EXTX \$0.00

DEPUTY

ELECTRONICALLY RECORDED

Prepared By & Return to:

Charles D. Meier, Marshall, Williams & Gorham, LLP
 430 Eastwood Road Suite 200, Wilmington, NC 28403

STATE OF NORTH CAROLINA
 COUNTY OF NEW HANOVER

**THIRD AMENDMENT TO THE DECLARATION AND FIRST AMENDMENT TO THE
 BYLAWS OF DOLPHIN BAY**

This Third Amendment to the Declaration and First Amendment to the Bylaws of Dolphin Bay ("Amendments") is made and entered into as of this 31 day of March 2021 by The Dolphin Bay Homeowners Association, Inc., a North Carolina nonprofit corporation ("Association").

WITNESSETH:

A. The Association is the property owners' association charged with the responsibility for the operation of that certain real property known as Dolphin Bay located in New Hanover County, North Carolina, and described in a Declaration recorded in Book 1238, Page 0511, New Hanover County Register of Deeds ("Declaration"). The Bylaws are recorded in Book 1430, Page 0642, New Hanover County Register of Deeds ("Bylaws").

B. The Declaration provides in Article VIII(A) that the Declaration can be amended by affirmative vote of not less than seventy-five percent (75%) of the Members. In addition, the Declaration was amended by an instrument recorded in Book 4327, Page 372, to adopt the N.C. Planned Community Act, Chapter 47F of the N.C. General Statutes, which lowered the percentage of votes required to amend the Declaration to sixty-seven percent (67%) in accordance with N.C.G.S.A. § 47F-2-117. The Bylaws provide in Article VIII (C.) that the Bylaws can be amended by an affirmative vote of not less than fifty-one percent (51%) of the Members

C. The Amendments set forth below have been adopted by an affirmative vote of not less than eighty-three percent (83%) of the votes of the members by ballot, and have otherwise been properly adopted and approved as required by the Declaration, Bylaws and Articles of Incorporation, as applicable. In particular, there were 93 possible votes and 78 voted in favor of the Amendments.

submitted electronically by "Marshall, Williams & Gorham"
 in compliance with North Carolina statutes governing recordable documents
 and the terms of the submitter agreement with the New Hanover County Register of Deeds.

D. That the President or Vice President of the Association has been duly authorized and empowered to execute these Amendments and to cause the same to be recorded in the New Hanover County Register of Deeds as the binding act of the Association, its Members and Board of Directors.

Now therefore, in consideration of the recitals set forth above, and as the act and deed of the Association, its Members and Board of Directors, the Declaration is hereby amended and modified as set forth below:

DECLARATION AMENDMENTS

Article II, USE RESTRICTIONS, shall be amended by adding the following subsections:

J. Renting or Leasing of Lots:

In order to assure a community of congenial Lot Owners and thus protect the value of the Lots, leasing of a Lot by an Owner shall be subject to the following provisions:

Lots may be rented only in their entirety; no fraction or portion may be rented. No Owner may occupy the residence at the same time as a tenant. Subletting shall not be permitted. Residences must be occupied by a tenant for a term of not less than six (6) months. All leases must be in writing and be for a term of not less than six (6) months. No Owner shall advertise the Lot for lease for a term of less than six (6) months.

All leases and tenants are subject to the provisions of the Declaration, Bylaws, and Rules and Regulations. The lease shall be deemed to include all the provisions of the Declaration, Bylaws, and Rules and Regulations. The Lot Owner must make available to the tenant copies of the Declaration, Bylaws, and Rules and Regulations. Any tenant, by occupancy of a Lot, agrees to comply with the Declaration, Bylaws, and Rules and Regulations.

"Leasing" for purposes of this Declaration is defined as regular occupancy of a residence by any person other than the Owner for which the Owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

Any violation of the Declaration or Bylaws, or Rules and Regulations adopted pursuant thereto by the tenant, is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the tenant in accordance with North Carolina law.

K. Prohibition of Time-Sharing:

Time-sharing and time shares as defined in the North Carolina Time Share Act (N.C. Gen. Stat. § 93A-39 et seq.) of any residence in the Property is prohibited.

BYLAW AMENDMENT

The Bylaws shall be amended by adding the following Article X:

Notwithstanding any other provisions of the Articles of Incorporation, Declaration or Bylaws, and to the fullest extent not specifically prohibited by law:

A. Electronic communication shall be considered sufficient notice to the Members, Board of Directors and Committees, of any meeting, ballot vote in lieu of a meeting, fine hearings, hearings on suspension of voting rights, privileges or services, or any other business of the Association, unless the Member has filed with the Secretary of the Association a written request for notice by other reasonable means.

B. Meetings of the Members, Board of Directors and Committees, fine hearings, hearings on suspension of voting rights, privileges or services, or any other business of the Association, shall be valid if conducted by the use of any means of communication by which all persons participating may simultaneously hear each other during the meeting, fine hearings, hearings on suspension of voting rights, privileges or services, or any other business of the Association.

C. Persons may vote at such meetings of the Members, Board of Directors and Committees, fine hearings, hearings on suspension of voting rights privileges or services, or any other business of the Association, by electronic communication.

END OF AMENDMENTS

Except as amended, the Declaration and Bylaws, as may have been previously amended, shall remain in full force and effect.

The undersigned, being the President of the Association, does, by his/her execution hereof, certify that these Amendments were duly adopted by not less than eighty-three percent (83%) of the votes of the members, by ballot, and have otherwise been properly adopted and approved as required by the Declaration, Bylaws and Articles of Incorporation, as applicable, were duly adopted by a vote of the Board of Directors (if required), and that all the procedures, steps and requirements necessary to amend said Declaration and Bylaws have been complied with, the day and year first above written.

This is the 31st day of March 2021.

THE DOLPHIN BAY HOMEOWNERS ASSOCIATION, INC.

By: Ronald L Hess
President
Printed Name: Ronald L Hess

STATE OF NORTH CAROLINA
COUNTY OF New Hanover

I, Elise Mary Galgano, notary public, do hereby certify that Ronald L. Hess (name of officer), personally appeared before me this day and acknowledged that he/she is the President of the Association and that he/she, being authorized to do so, executed the foregoing on behalf of the Association.

Witness my hand and official seal this the 31st day of March, 2021.

Elise Mary Galgano
Notary Public
My Commission Expires: 01/15/2025

(Notary Seal)

